

117TH CONGRESS
2D SESSION

S. 3600

AN ACT

To improve the cybersecurity of the Federal Government,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Strengthening Amer-
3 ican Cybersecurity Act of 2022”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—FEDERAL INFORMATION SECURITY MODERNIZATION
ACT OF 2022

Sec. 101. Short title.

Sec. 102. Definitions.

Sec. 103. Title 44 amendments.

Sec. 104. Amendments to subtitle III of title 40.

Sec. 105. Actions to enhance Federal incident transparency.

Sec. 106. Additional guidance to agencies on FISMA updates.

Sec. 107. Agency requirements to notify private sector entities impacted by in-
cidents.

Sec. 108. Mobile security standards.

Sec. 109. Data and logging retention for incident response.

Sec. 110. CISA agency advisors.

Sec. 111. Federal penetration testing policy.

Sec. 112. Ongoing threat hunting program.

Sec. 113. Codifying vulnerability disclosure programs.

Sec. 114. Implementing zero trust architecture.

Sec. 115. Automation reports.

Sec. 116. Extension of Federal acquisition security council and software inven-
tory.

Sec. 117. Council of the Inspectors General on Integrity and Efficiency dash-
board.

Sec. 118. Quantitative cybersecurity metrics.

Sec. 119. Establishment of risk-based budget model.

Sec. 120. Active cyber defensive study.

Sec. 121. Security operations center as a service pilot.

Sec. 122. Extension of Chief Data Officer Council.

Sec. 123. Federal Cybersecurity Requirements.

TITLE II—CYBER INCIDENT REPORTING FOR CRITICAL
INFRASTRUCTURE ACT OF 2022

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Cyber incident reporting.

Sec. 204. Federal sharing of incident reports.

Sec. 205. Ransomware vulnerability warning pilot program.

Sec. 206. Ransomware threat mitigation activities.

Sec. 207. Congressional reporting.

TITLE III—FEDERAL SECURE CLOUD IMPROVEMENT AND JOBS
ACT OF 2022

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Title 44 amendments.

1 **TITLE I—FEDERAL INFORMA-**
2 **TION SECURITY MODERNIZA-**
3 **TION ACT OF 2022**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Federal Information
6 Security Modernization Act of 2022”.

7 **SEC. 102. DEFINITIONS.**

8 In this title, unless otherwise specified:

9 (1) **ADDITIONAL CYBERSECURITY PROCE-**
10 **DURE.**—The term “additional cybersecurity proce-
11 dure” has the meaning given the term in section
12 3552(b) of title 44, United States Code, as amended
13 by this title.

14 (2) **AGENCY.**—The term “agency” has the
15 meaning given the term in section 3502 of title 44,
16 United States Code.

17 (3) **APPROPRIATE CONGRESSIONAL COMMIT-**
18 **TEES.**—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Homeland Security
21 and Governmental Affairs of the Senate;

22 (B) the Committee on Oversight and Re-
23 form of the House of Representatives; and

1 (C) the Committee on Homeland Security
2 of the House of Representatives.

3 (4) DIRECTOR.—The term “Director” means
4 the Director of the Office of Management and Budg-
5 et.

6 (5) INCIDENT.—The term “incident” has the
7 meaning given the term in section 3552(b) of title
8 44, United States Code.

9 (6) NATIONAL SECURITY SYSTEM.—The term
10 “national security system” has the meaning given
11 the term in section 3552(b) of title 44, United
12 States Code.

13 (7) PENETRATION TEST.—The term “penetra-
14 tion test” has the meaning given the term in section
15 3552(b) of title 44, United States Code, as amended
16 by this title.

17 (8) THREAT HUNTING.—The term “threat
18 hunting” means proactively and iteratively searching
19 systems for threats that evade detection by auto-
20 mated threat detection systems.

21 **SEC. 103. TITLE 44 AMENDMENTS.**

22 (a) SUBCHAPTER I AMENDMENTS.—Subchapter I of
23 chapter 35 of title 44, United States Code, is amended—

24 (1) in section 3504—

25 (A) in subsection (a)(1)(B)—

1 (i) by striking clause (v) and inserting
2 the following:

3 “(v) confidentiality, privacy, disclosure,
4 and sharing of information;”;

5 (ii) by redesignating clause (vi) as
6 clause (vii); and

7 (iii) by inserting after clause (v) the
8 following:

9 “(vi) in consultation with the National
10 Cyber Director, security of information; and”;
11 and

12 (B) in subsection (g), by striking para-
13 graph (1) and inserting the following:

14 “(1) develop and oversee the implementation of
15 policies, principles, standards, and guidelines on pri-
16 vacy, confidentiality, disclosure, and sharing, and in
17 consultation with the National Cyber Director, over-
18 see the implementation of policies, principles, stand-
19 ards, and guidelines on security, of information col-
20 lected or maintained by or for agencies; and”;

21 (2) in section 3505—

22 (A) by striking the first subsection des-
23 ignated as subsection (c);

24 (B) in paragraph (2) of the second sub-
25 section designated as subsection (c), by insert-

1 ing “an identification of internet accessible in-
2 formation systems and” after “an inventory
3 under this subsection shall include”;

4 (C) in paragraph (3) of the second sub-
5 section designated as subsection (c)—

6 (i) in subparagraph (B)—

7 (I) by inserting “the Director of
8 the Cybersecurity and Infrastructure
9 Security Agency, the National Cyber
10 Director, and” before “the Comp-
11 troller General”; and

12 (II) by striking “and” at the end;

13 (ii) in subparagraph (C)(v), by strik-
14 ing the period at the end and inserting “;
15 and”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(D) maintained on a continual basis through
19 the use of automation, machine-readable data, and
20 scanning, wherever practicable.”;

21 (3) in section 3506—

22 (A) in subsection (a)(3), by inserting “In
23 carrying out these duties, the Chief Information
24 Officer shall coordinate, as appropriate, with
25 the Chief Data Officer in accordance with the

1 designated functions under section 3520(c).”
2 after “reduction of information collection bur-
3 dens on the public.”;

4 (B) in subsection (b)(1)(C), by inserting “,
5 availability” after “integrity”; and

6 (C) in subsection (h)(3), by inserting “se-
7 curity,” after “efficiency,”; and

8 (4) in section 3513—

9 (A) by redesignating subsection (c) as sub-
10 section (d); and

11 (B) by inserting after subsection (b) the
12 following:

13 “(c) Each agency providing a written plan under sub-
14 section (b) shall provide any portion of the written plan
15 addressing information security to the Secretary of the
16 Department of Homeland Security and the National Cyber
17 Director.”.

18 (b) SUBCHAPTER II DEFINITIONS.—

19 (1) IN GENERAL.—Section 3552(b) of title 44,
20 United States Code, is amended—

21 (A) by redesignating paragraphs (1), (2),
22 (3), (4), (5), (6), and (7) as paragraphs (2),
23 (4), (5), (6), (7), (9), and (11), respectively;

24 (B) by inserting before paragraph (2), as
25 so redesignated, the following:

1 “(1) The term ‘additional cybersecurity proce-
2 dure’ means a process, procedure, or other activity
3 that is established in excess of the information secu-
4 rity standards promulgated under section 11331(b)
5 of title 40 to increase the security and reduce the cy-
6 bersecurity risk of agency systems.”;

7 (C) by inserting after paragraph (2), as so
8 redesignated, the following:

9 “(3) The term ‘high value asset’ means infor-
10 mation or an information system that the head of an
11 agency, using policies, principles, standards, or
12 guidelines issued by the Director under section
13 3553(a), determines to be so critical to the agency
14 that the loss or corruption of the information or the
15 loss of access to the information system would have
16 a serious impact on the ability of the agency to per-
17 form the mission of the agency or conduct busi-
18 ness.”;

19 (D) by inserting after paragraph (7), as so
20 redesignated, the following:

21 “(8) The term ‘major incident’ has the meaning
22 given the term in guidance issued by the Director
23 under section 3598(a).”;

24 (E) by inserting after paragraph (9), as so
25 redesignated, the following:

1 “(10) The term ‘penetration test’—

2 “(A) means an authorized assessment that
3 emulates attempts to gain unauthorized access
4 to, or disrupt the operations of, an information
5 system or component of an information system;
6 and

7 “(B) includes any additional meaning
8 given the term in policies, principles, standards,
9 or guidelines issued by the Director under sec-
10 tion 3553(a).”; and

11 (F) by inserting after paragraph (11), as
12 so redesignated, the following:

13 “(12) The term ‘shared service’ means a cen-
14 tralized business or mission capability that is pro-
15 vided to multiple organizations within an agency or
16 to multiple agencies.”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) HOMELAND SECURITY ACT OF 2002.—
19 Section 1001(c)(1)(A) of the Homeland Secu-
20 rity Act of 2002 (6 U.S.C. 511(1)(A)) is
21 amended by striking “section 3552(b)(5)” and
22 inserting “section 3552(b)”.

23 (B) TITLE 10.—

24 (i) SECTION 2222.—Section 2222(i)(8)
25 of title 10, United States Code, is amended

1 by striking “section 3552(b)(6)(A)” and
2 inserting “section 3552(b)(9)(A)”.

3 (ii) SECTION 2223.—Section
4 2223(c)(3) of title 10, United States Code,
5 is amended by striking “section
6 3552(b)(6)” and inserting “section
7 3552(b)”.

8 (iii) SECTION 2315.—Section 2315 of
9 title 10, United States Code, is amended
10 by striking “section 3552(b)(6)” and in-
11 sserting “section 3552(b)”.

12 (iv) SECTION 2339A.—Section
13 2339a(e)(5) of title 10, United States
14 Code, is amended by striking “section
15 3552(b)(6)” and inserting “section
16 3552(b)”.

17 (C) HIGH-PERFORMANCE COMPUTING ACT
18 OF 1991.—Section 207(a) of the High-Perform-
19 ance Computing Act of 1991 (15 U.S.C.
20 5527(a)) is amended by striking “section
21 3552(b)(6)(A)(i)” and inserting “section
22 3552(b)(9)(A)(i)”.

23 (D) INTERNET OF THINGS CYBERSECURITY
24 IMPROVEMENT ACT OF 2020.—Section 3(5)
25 of the Internet of Things Cybersecurity Im-

1 provement Act of 2020 (15 U.S.C. 278g–3a) is
2 amended by striking “section 3552(b)(6)” and
3 inserting “section 3552(b)”.

4 (E) NATIONAL DEFENSE AUTHORIZATION
5 ACT FOR FISCAL YEAR 2013.—Section
6 933(e)(1)(B) of the National Defense Author-
7 ization Act for Fiscal Year 2013 (10 U.S.C.
8 2224 note) is amended by striking “section
9 3542(b)(2)” and inserting “section 3552(b)”.

10 (F) IKE SKELTON NATIONAL DEFENSE AU-
11 THORIZATION ACT FOR FISCAL YEAR 2011.—The
12 Ike Skelton National Defense Authorization Act
13 for Fiscal Year 2011 (Public Law 111–383) is
14 amended—

15 (i) in section 806(e)(5) (10 U.S.C.
16 2304 note), by striking “section 3542(b)”
17 and inserting “section 3552(b)”;

18 (ii) in section 931(b)(3) (10 U.S.C.
19 2223 note), by striking “section
20 3542(b)(2)” and inserting “section
21 3552(b)”;

22 (iii) in section 932(b)(2) (10 U.S.C.
23 2224 note), by striking “section
24 3542(b)(2)” and inserting “section
25 3552(b)”.

1 (G) E-GOVERNMENT ACT OF 2002.—Sec-
2 tion 301(c)(1)(A) of the E-Government Act of
3 2002 (44 U.S.C. 3501 note) is amended by
4 striking “section 3542(b)(2)” and inserting
5 “section 3552(b)”.

6 (H) NATIONAL INSTITUTE OF STANDARDS
7 AND TECHNOLOGY ACT.—Section 20 of the Na-
8 tional Institute of Standards and Technology
9 Act (15 U.S.C. 278g–3) is amended—

10 (i) in subsection (a)(2), by striking
11 “section 3552(b)(5)” and inserting “sec-
12 tion 3552(b)”;

13 (ii) in subsection (f)—

14 (I) in paragraph (3), by striking
15 “section 3532(1)” and inserting “sec-
16 tion 3552(b)”;

17 (II) in paragraph (5), by striking
18 “section 3532(b)(2)” and inserting
19 “section 3552(b)”.

20 (c) SUBCHAPTER II AMENDMENTS.—Subchapter II
21 of chapter 35 of title 44, United States Code, is amend-
22 ed—

23 (1) in section 3551—

1 (A) in paragraph (4), by striking “diag-
2 nose and improve” and inserting “integrate, de-
3 liver, diagnose, and improve”;

4 (B) in paragraph (5), by striking “and” at
5 the end;

6 (C) in paragraph (6), by striking the pe-
7 riod at the end and inserting a semi colon; and

8 (D) by adding at the end the following:

9 “(7) recognize that each agency has specific
10 mission requirements and, at times, unique cyberse-
11 curity requirements to meet the mission of the agen-
12 cy;

13 “(8) recognize that each agency does not have
14 the same resources to secure agency systems, and an
15 agency should not be expected to have the capability
16 to secure the systems of the agency from advanced
17 adversaries alone; and

18 “(9) recognize that a holistic Federal cybersecu-
19 rity model is necessary to account for differences be-
20 tween the missions and capabilities of agencies.”;

21 (2) in section 3553—

22 (A) in subsection (a)—

23 (i) in paragraph (1), by inserting “, in
24 consultation with the Secretary and the

1 National Cyber Director,” before “over-
2 seeing”;

3 (ii) in paragraph (5), by striking
4 “and” at the end; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(8) promoting, in consultation with the Direc-
8 tor of the Cybersecurity and Infrastructure Security
9 Agency, the National Cyber Director, and the Direc-
10 tor of the National Institute of Standards and Tech-
11 nology—

12 “(A) the use of automation to improve
13 Federal cybersecurity and visibility with respect
14 to the implementation of Federal cybersecurity;
15 and

16 “(B) the use of presumption of com-
17 promise and least privilege principles to improve
18 resiliency and timely response actions to inci-
19 dents on Federal systems.”;

20 (B) in subsection (b)—

21 (i) in the matter preceding paragraph
22 (1), by inserting “and the National Cyber
23 Director” after “Director”; and

24 (ii) in paragraph (2)(A), by inserting
25 “and reporting requirements under sub-

1 chapter IV of this chapter” after “section
2 3556”; and
3 (C) in subsection (c)—
4 (i) in the matter preceding paragraph
5 (1)—
6 (I) by striking “each year” and
7 inserting “each year during which
8 agencies are required to submit re-
9 ports under section 3554(c)”; and
10 (II) by striking “preceding year”
11 and inserting “preceding 2 years”;
12 (ii) by striking paragraph (1);
13 (iii) by redesignating paragraphs (2),
14 (3), and (4) as paragraphs (1), (2), and
15 (3), respectively;
16 (iv) in paragraph (3), as so redesi-
17 gnated, by striking “and” at the end;
18 (v) by inserting after paragraph (3),
19 as so redesignated the following:
20 “(4) a summary of each assessment of Federal
21 risk posture performed under subsection (i);” and
22 (vi) in paragraph (5), by striking the
23 period at the end and inserting “; and”;

1 (D) by redesignating subsections (i), (j),
2 (k), and (l) as subsections (j), (k), (l), and (m)
3 respectively;

4 (E) by inserting after subsection (h) the
5 following:

6 “(i) FEDERAL RISK ASSESSMENTS.—On an ongoing
7 and continuous basis, the Director of the Cybersecurity
8 and Infrastructure Security Agency shall perform assess-
9 ments of Federal risk posture using any available informa-
10 tion on the cybersecurity posture of agencies, and brief
11 the Director and National Cyber Director on the findings
12 of those assessments including—

13 “(1) the status of agency cybersecurity remedial
14 actions described in section 3554(b)(7);

15 “(2) any vulnerability information relating to
16 the systems of an agency that is known by the agen-
17 cy;

18 “(3) analysis of incident information under sec-
19 tion 3597;

20 “(4) evaluation of penetration testing per-
21 formed under section 3559A;

22 “(5) evaluation of vulnerability disclosure pro-
23 gram information under section 3559B;

24 “(6) evaluation of agency threat hunting re-
25 sults;

1 “(7) evaluation of Federal and non-Federal
2 cyber threat intelligence;

3 “(8) data on agency compliance with standards
4 issued under section 11331 of title 40;

5 “(9) agency system risk assessments performed
6 under section 3554(a)(1)(A); and

7 “(10) any other information the Director of the
8 Cybersecurity and Infrastructure Security Agency
9 determines relevant.”;

10 (F) in subsection (j), as so redesignated—

11 (i) by striking “regarding the spe-
12 cific” and inserting “that includes a sum-
13 mary of—

14 “(1) the specific”;

15 (ii) in paragraph (1), as so des-
16 igned, by striking the period at the end
17 and inserting “; and” and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(2) the trends identified in the Federal risk
21 assessment performed under subsection (i).”; and

22 (G) by adding at the end the following:

23 “(n) BINDING OPERATIONAL DIRECTIVES.—If the
24 Director of the Cybersecurity and Infrastructure Security
25 Agency issues a binding operational directive or an emer-

1 agency directive under this section, not later than 4 days
 2 after the date on which the binding operational directive
 3 requires an agency to take an action, the Director of the
 4 Cybersecurity and Infrastructure Security Agency shall
 5 provide to the Director, National Cyber Director, the
 6 Committee on Homeland Security and Governmental Af-
 7 fairs of the Senate and the Committee on Oversight and
 8 Reform of the House of Representatives the status of the
 9 implementation of the binding operational directive at the
 10 agency.

11 “(o) REVIEW OF OFFICE OF MANAGEMENT AND
 12 BUDGET GUIDANCE AND POLICY.—

13 “(1) REVIEW.—

14 “(A) IN GENERAL.—Not less frequently
 15 than once every 3 years, the Director, in con-
 16 sultation with the Chief Information Officers
 17 Council, the Director of the Cybersecurity and
 18 Infrastructure Security Agency, the National
 19 Cyber Director, the Comptroller General of the
 20 United States, and the Council of the Inspec-
 21 tors General on Integrity and Efficiency,
 22 shall—

23 “(i) review the efficacy of the guid-
 24 ance and policy developed by the Director
 25 under subsection (a)(1) in reducing cyber-

1 security risks, including an assessment of
2 the requirements for agencies to report in-
3 formation to the Director; and

4 “(ii) determine whether any changes
5 to the guidance or policy developed under
6 subsection (a)(1) is appropriate.

7 “(B) CONSIDERATIONS.—In conducting
8 the review required under subparagraph (A),
9 the Director shall consider—

10 “(i) the Federal risk assessments per-
11 formed under subsection (i);

12 “(ii) the cumulative reporting and
13 compliance burden to agencies; and

14 “(iii) the clarity of the requirements
15 and deadlines contained in guidance and
16 policy documents.

17 “(2) UPDATED GUIDANCE.—Not later than 90
18 days after the date on which a review is completed
19 under paragraph (1), the Director shall issue up-
20 dated guidance or policy to agencies determined ap-
21 propriate by the Director, based on the results of the
22 review.

23 “(3) PUBLIC REPORT.—Not later than 30 days
24 after the date on which the Director completes a re-

1 view under paragraph (1), the Director shall make
2 publicly available a report that includes—

3 “(A) an overview of the guidance and pol-
4 icy developed under subsection (a)(1) that is in
5 effect;

6 “(B) the cybersecurity risk mitigation, or
7 other cybersecurity benefit, offered by each
8 guidance or policy described in subparagraph
9 (A);

10 “(C) a summary of the guidance or policy
11 developed under subsection (a)(1) to which
12 changes were determined appropriate during
13 the review; and

14 “(D) the changes that are anticipated to
15 be included in the updated guidance or policy
16 issued under paragraph (2).

17 “(4) CONGRESSIONAL BRIEFING.—Not later
18 than 60 days after the date on which a review is
19 completed under paragraph (1), the Director shall
20 provide to the Committee on Homeland Security and
21 Governmental Affairs of the Senate and the Com-
22 mittee on Oversight and Reform of the House of
23 Representatives a briefing on the review.

24 “(p) AUTOMATED STANDARD IMPLEMENTATION
25 VERIFICATION.—When the Director of the National Insti-

1 tute of Standards and Technology issues a proposed
2 standard pursuant to paragraphs (2) or (3) of section
3 20(a) of the National Institute of Standards and Tech-
4 nology Act (15 U.S.C. 278g-3(a)), the Director of the Na-
5 tional Institute of Standards and Technology shall con-
6 sider developing and, if appropriate and practical, develop,
7 in consultation with the Director of the Cybersecurity and
8 Infrastructure Security Agency, specifications to enable
9 the automated verification of the implementation of the
10 controls within the standard.”;

11 (3) in section 3554—

12 (A) in subsection (a)—

13 (i) in paragraph (1)—

14 (I) by redesignating subpara-
15 graphs (A), (B), and (C) as subpara-
16 graphs (B), (C), and (D), respectively;

17 (II) by inserting before subpara-
18 graph (B), as so redesignated, the fol-
19 lowing:

20 “(A) on an ongoing and continuous basis,
21 performing agency system risk assessments
22 that—

23 “(i) identify and document the high
24 value assets of the agency using guidance
25 from the Director;

1 “(ii) evaluate the data assets inven-
2 toried under section 3511 for sensitivity to
3 compromises in confidentiality, integrity,
4 and availability;

5 “(iii) identify agency systems that
6 have access to or hold the data assets
7 inventoried under section 3511;

8 “(iv) evaluate the threats facing agen-
9 cy systems and data, including high value
10 assets, based on Federal and non-Federal
11 cyber threat intelligence products, where
12 available;

13 “(v) evaluate the vulnerability of
14 agency systems and data, including high
15 value assets, including by analyzing—

16 “(I) the results of penetration
17 testing performed by the Department
18 of Homeland Security under section
19 3553(b)(9);

20 “(II) the results of penetration
21 testing performed under section
22 3559A;

23 “(III) information provided to
24 the agency through the vulnerability

1 disclosure program of the agency
2 under section 3559B;
3 “(IV) incidents; and
4 “(V) any other vulnerability in-
5 formation relating to agency systems
6 that is known to the agency;
7 “(vi) assess the impacts of potential
8 agency incidents to agency systems, data,
9 and operations based on the evaluations
10 described in clauses (ii) and (iv) and the
11 agency systems identified under clause
12 (iii); and
13 “(vii) assess the consequences of po-
14 tential incidents occurring on agency sys-
15 tems that would impact systems at other
16 agencies, including due to interconnectivity
17 between different agency systems or oper-
18 ational reliance on the operations of the
19 system or data in the system;”;
20 (III) in subparagraph (B), as so
21 redesignated, in the matter preceding
22 clause (i), by striking “providing in-
23 formation” and inserting “using infor-
24 mation from the assessment con-

1 ducted under subparagraph (A), pro-
2 viding information”;

3 (IV) in subparagraph (C), as so
4 redesignated—

5 (aa) in clause (ii) by insert-
6 ing “binding” before “oper-
7 ational”; and

8 (bb) in clause (vi), by strik-
9 ing “and” at the end; and

10 (V) by adding at the end the fol-
11 lowing:

12 “(E) providing an update on the ongoing
13 and continuous assessment performed under
14 subparagraph (A)—

15 “(i) upon request, to the inspector
16 general of the agency or the Comptroller
17 General of the United States; and

18 “(ii) on a periodic basis, as deter-
19 mined by guidance issued by the Director
20 but not less frequently than annually, to—

21 “(I) the Director;

22 “(II) the Director of the Cyberse-
23 curity and Infrastructure Security
24 Agency; and

1 “(III) the National Cyber Direc-
2 tor;

3 “(F) in consultation with the Director of
4 the Cybersecurity and Infrastructure Security
5 Agency and not less frequently than once every
6 3 years, performing an evaluation of whether
7 additional cybersecurity procedures are appro-
8 priate for securing a system of, or under the
9 supervision of, the agency, which shall—

10 “(i) be completed considering the
11 agency system risk assessment performed
12 under subparagraph (A); and

13 “(ii) include a specific evaluation for
14 high value assets;

15 “(G) not later than 30 days after com-
16 pleting the evaluation performed under sub-
17 paragraph (F), providing the evaluation and an
18 implementation plan, if applicable, for using ad-
19 ditional cybersecurity procedures determined to
20 be appropriate to—

21 “(i) the Director of the Cybersecurity
22 and Infrastructure Security Agency;

23 “(ii) the Director; and

24 “(iii) the National Cyber Director;

25 and

1 “(H) if the head of the agency determines
2 there is need for additional cybersecurity proce-
3 dures, ensuring that those additional cybersecu-
4 rity procedures are reflected in the budget re-
5 quest of the agency;”;

6 (ii) in paragraph (2)—

7 (I) in subparagraph (A), by in-
8 sserting “in accordance with the agen-
9 cy system risk assessment performed
10 under paragraph (1)(A)” after “infor-
11 mation systems”;

12 (II) in subparagraph (B)—

13 (aa) by striking “in accord-
14 ance with standards” and insert-
15 ing “in accordance with—

16 “(i) standards”; and

17 (bb) by adding at the end
18 the following:

19 “(ii) the evaluation performed under
20 paragraph (1)(F); and

21 “(iii) the implementation plan de-
22 scribed in paragraph (1)(G);”; and

23 (III) in subparagraph (D), by in-
24 sserting “, through the use of penetra-
25 tion testing, the vulnerability disclo-

1 sure program established under sec-
2 tion 3559B, and other means,” after
3 “periodically”;

4 (iii) in paragraph (3)—

5 (I) in subparagraph (A)—

6 (aa) in clause (iii), by strik-
7 ing “and” at the end;

8 (bb) in clause (iv), by add-
9 ing “and” at the end; and

10 (cc) by adding at the end
11 the following:

12 “(v) ensure that—

13 “(I) senior agency information
14 security officers of component agen-
15 cies carry out responsibilities under
16 this subchapter, as directed by the
17 senior agency information security of-
18 ficer of the agency or an equivalent
19 official; and

20 “(II) senior agency information
21 security officers of component agen-
22 cies report to—

23 “(aa) the senior information
24 security officer of the agency or
25 an equivalent official; and

1 “(bb) the Chief Information
2 Officer of the component agency
3 or an equivalent official;” and

4 (iv) in paragraph (5), by inserting
5 “and the Director of the Cybersecurity and
6 Infrastructure Security Agency” before
7 “on the effectiveness”;

8 (B) in subsection (b)—

9 (i) by striking paragraph (1) and in-
10 serting the following:

11 “(1) pursuant to subsection (a)(1)(A), per-
12 forming ongoing and continuous agency system risk
13 assessments, which may include using guidelines and
14 automated tools consistent with standards and
15 guidelines promulgated under section 11331 of title
16 40, as applicable;”;

17 (ii) in paragraph (2)—

18 (I) by striking subparagraph (B)
19 and inserting the following:

20 “(B) comply with the risk-based cyber
21 budget model developed pursuant to section
22 3553(a)(7);” and

23 (II) in subparagraph (D)—

1 (aa) by redesignating
2 clauses (iii) and (iv) as clauses
3 (iv) and (v), respectively;

4 (bb) by inserting after
5 clause (ii) the following:

6 “(iii) binding operational directives
7 and emergency directives promulgated by
8 the Director of the Cybersecurity and In-
9 frastructure Security Agency under section
10 3553;” and

11 (cc) in clause (iv), as so re-
12 designated, by striking “as deter-
13 mined by the agency; and” and
14 inserting “as determined by the
15 agency, considering the agency
16 risk assessment performed under
17 subsection (a)(1)(A); and

18 (iii) in paragraph (5)(A), by inserting
19 “, including penetration testing, as appro-
20 priate,” after “shall include testing”;

21 (iv) in paragraph (6), by striking
22 “planning, implementing, evaluating, and
23 documenting” and inserting “planning and
24 implementing and, in consultation with the
25 Director of the Cybersecurity and Infra-

1 structure Security Agency, evaluating and
2 documenting”;

3 (v) by redesignating paragraphs (7)
4 and (8) as paragraphs (8) and (9), respec-
5 tively;

6 (vi) by inserting after paragraph (6)
7 the following:

8 “(7) a process for providing the status of every
9 remedial action and unremediated identified system
10 vulnerability to the Director and the Director of the
11 Cybersecurity and Infrastructure Security Agency,
12 using automation and machine-readable data to the
13 greatest extent practicable;” and

14 (vii) in paragraph (8)(C), as so redesi-
15 gnated—

16 (I) by striking clause (ii) and in-
17 serting the following:

18 “(ii) notifying and consulting with the
19 Federal information security incident cen-
20 ter established under section 3556 pursu-
21 ant to the requirements of section 3594;”;

22 (II) by redesignating clause (iii)
23 as clause (iv);

24 (III) by inserting after clause (ii)
25 the following:

1 “(iii) performing the notifications and
2 other activities required under subchapter
3 IV of this chapter; and”;

4 (IV) in clause (iv), as so redesign-
5 nated—

6 (aa) in subclause (I), by
7 striking “and relevant offices of
8 inspectors general”;

9 (bb) in subclause (II), by
10 adding “and” at the end;

11 (cc) by striking subclause
12 (III); and

13 (dd) by redesignating sub-
14 clause (IV) as subclause (III);

15 (C) in subsection (c)—

16 (i) by redesignating paragraph (2) as
17 paragraph (5);

18 (ii) by striking paragraph (1) and in-
19 serting the following:

20 “(1) BIENNIAL REPORT.—Not later than 2
21 years after the date of enactment of the Federal In-
22 formation Security Modernization Act of 2022 and
23 not less frequently than once every 2 years there-
24 after, using the continuous and ongoing agency sys-
25 tem risk assessment under subsection (a)(1)(A), the

1 head of each agency shall submit to the Director,
2 the Director of the Cybersecurity and Infrastructure
3 Security Agency, the majority and minority leaders
4 of the Senate, the Speaker and minority leader of
5 the House of Representatives, the Committee on
6 Homeland Security and Governmental Affairs of the
7 Senate, the Committee on Oversight and Reform of
8 the House of Representatives, the Committee on
9 Homeland Security of the House of Representatives,
10 the Committee on Commerce, Science, and Trans-
11 portation of the Senate, the Committee on Science,
12 Space, and Technology of the House of Representa-
13 tives, the appropriate authorization and appropri-
14 ations committees of Congress, the National Cyber
15 Director, and the Comptroller General of the United
16 States a report that—

17 “(A) summarizes the agency system risk
18 assessment performed under subsection
19 (a)(1)(A);

20 “(B) evaluates the adequacy and effective-
21 ness of information security policies, proce-
22 dures, and practices of the agency to address
23 the risks identified in the agency system risk
24 assessment performed under subsection
25 (a)(1)(A), including an analysis of the agency’s

1 cybersecurity and incident response capabilities
2 using the metrics established under section
3 224(c) of the Cybersecurity Act of 2015 (6
4 U.S.C. 1522(c));

5 “(C) summarizes the evaluation and imple-
6 mentation plans described in subparagraphs (F)
7 and (G) of subsection (a)(1) and whether those
8 evaluation and implementation plans call for
9 the use of additional cybersecurity procedures
10 determined to be appropriate by the agency;
11 and

12 “(D) summarizes the status of remedial
13 actions identified by inspector general of the
14 agency, the Comptroller General of the United
15 States, and any other source determined appro-
16 priate by the head of the agency.

17 “(2) UNCLASSIFIED REPORTS.—Each report
18 submitted under paragraph (1)—

19 “(A) shall be, to the greatest extent prac-
20 ticable, in an unclassified and otherwise uncon-
21 trolled form; and

22 “(B) may include a classified annex.

23 “(3) ACCESS TO INFORMATION.—The head of
24 an agency shall ensure that, to the greatest extent
25 practicable, information is included in the unclassi-

1 fied form of the report submitted by the agency
2 under paragraph (2)(A).

3 “(4) BRIEFINGS.—During each year during
4 which a report is not required to be submitted under
5 paragraph (1), the Director shall provide to the con-
6 gressional committees described in paragraph (1) a
7 briefing summarizing current agency and Federal
8 risk postures.”; and

9 (iii) in paragraph (5), as so redesign-
10 nated, by striking the period at the end
11 and inserting “, including the reporting
12 procedures established under section
13 11315(d) of title 40 and subsection
14 (a)(3)(A)(v) of this section”; and

15 (D) in subsection (d)(1), in the matter pre-
16 ceding subparagraph (A), by inserting “and the
17 National Cyber Director” after “the Director”;
18 and

19 (E) by adding at the end the following:

20 “(f) REPORTING STRUCTURE EXEMPTION.—

21 “(1) IN GENERAL.—On an annual basis, the
22 Director may exempt an agency from the reporting
23 structure requirement under subsection
24 (a)(3)(A)(v)(II).

1 “(2) REPORT.—On an annual basis, the Direc-
2 tor shall submit a report to the Committee on
3 Homeland Security and Governmental Affairs of the
4 Senate and the Committee on Oversight and Reform
5 of the House of Representatives that includes a list
6 of each exemption granted under paragraph (1) and
7 the associated rationale for each exemption.

8 “(3) COMPONENT OF OTHER REPORT.—The re-
9 port required under paragraph (2) may be incor-
10 porated into any other annual report required under
11 this chapter.”;

12 (4) in section 3555—

13 (A) in the section heading, by striking
14 “**ANNUAL INDEPENDENT**” and inserting
15 “**INDEPENDENT**”;

16 (B) in subsection (a)—

17 (i) in paragraph (1), by inserting
18 “during which a report is required to be
19 submitted under section 3553(c),” after
20 “Each year”;

21 (ii) in paragraph (2)(A), by inserting
22 “, including by penetration testing and
23 analyzing the vulnerability disclosure pro-
24 gram of the agency” after “information
25 systems”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(3) An evaluation under this section may include
4 recommendations for improving the cybersecurity posture
5 of the agency.”;

6 (C) in subsection (b)(1), by striking “an-
7 nual”;

8 (D) in subsection (e)(1), by inserting “dur-
9 ing which a report is required to be submitted
10 under section 3553(c)” after “Each year”;

11 (E) by striking subsection (f) and inserting
12 the following:

13 “(f) PROTECTION OF INFORMATION.—(1) Agencies,
14 evaluators, and other recipients of information that, if dis-
15 closed, may cause grave harm to the efforts of Federal
16 information security officers, shall take appropriate steps
17 to ensure the protection of that information, including
18 safeguarding the information from public disclosure.

19 “(2) The protections required under paragraph (1)
20 shall be commensurate with the risk and comply with all
21 applicable laws and regulations.

22 “(3) With respect to information that is not related
23 to national security systems, agencies and evaluators shall
24 make a summary of the information unclassified and pub-

1 lically available, including information that does not iden-
 2 tify—

3 “(A) specific information system incidents; or

4 “(B) specific information system
 5 vulnerabilities.”;

6 (F) in subsection (g)(2)—

7 (i) by striking “this subsection shall”
 8 and inserting “this subsection—

9 “(A) shall”;

10 (ii) in subparagraph (A), as so des-
 11 ignated, by striking the period at the end
 12 and inserting “; and”; and

13 (iii) by adding at the end the fol-
 14 lowing:

15 “(B) identify any entity that performs an inde-
 16 pendent evaluation under subsection (b).”; and

17 (G) by striking subsection (j) and inserting
 18 the following:

19 “(j) GUIDANCE.—

20 “(1) IN GENERAL.—The Director, in consulta-
 21 tion with the Director of the Cybersecurity and In-
 22 frastructure Security Agency, the Chief Information
 23 Officers Council, the Council of the Inspectors Gen-
 24 eral on Integrity and Efficiency, and other interested
 25 parties as appropriate, shall ensure the development

1 of risk-based guidance for evaluating the effective-
2 ness of an information security program and prac-
3 tices

4 “(2) PRIORITIES.—The risk-based guidance de-
5 veloped under paragraph (1) shall include—

6 “(A) the identification of the most common
7 successful threat patterns experienced by each
8 agency;

9 “(B) the identification of security controls
10 that address the threat patterns described in
11 subparagraph (A);

12 “(C) any other security risks unique to the
13 networks of each agency; and

14 “(D) any other element the Director, in
15 consultation with the Director of the Cybersecu-
16 rity and Infrastructure Security Agency and the
17 Council of the Inspectors General on Integrity
18 and Efficiency, determines appropriate.”; and

19 (5) in section 3556(a)—

20 (A) in the matter preceding paragraph (1),
21 by inserting “within the Cybersecurity and In-
22 frastructure Security Agency” after “incident
23 center”; and

24 (B) in paragraph (4), by striking
25 “3554(b)” and inserting “3554(a)(1)(A)”.

1 (d) CONFORMING AMENDMENTS.—

2 (1) TABLE OF SECTIONS.—The table of sections
3 for chapter 35 of title 44, United States Code, is
4 amended by striking the item relating to section
5 3555 and inserting the following:

“3555. Independent evaluation”.

6 (2) OMB REPORTS.—Section 226(c) of the Cy-
7 bersecurity Act of 2015 (6 U.S.C. 1524(c)) is
8 amended—

9 (A) in paragraph (1)(B), in the matter
10 preceding clause (i), by striking “annually
11 thereafter” and inserting “thereafter during the
12 years during which a report is required to be
13 submitted under section 3553(c) of title 44,
14 United States Code”; and

15 (B) in paragraph (2)(B), in the matter
16 preceding clause (i)—

17 (i) by striking “annually thereafter”
18 and inserting “thereafter during the years
19 during which a report is required to be
20 submitted under section 3553(c) of title
21 44, United States Code”; and

22 (ii) by striking “the report required
23 under section 3553(c) of title 44, United
24 States Code” and inserting “that report”.

1 “(D) the Committee on Oversight and Re-
2 form of the House of Representatives;

3 “(E) the Committee on Homeland Security
4 of the House of Representatives;

5 “(F) the appropriate authorization and ap-
6 propriations committees of Congress;

7 “(G) the Director;

8 “(H) the Director of the Cybersecurity and
9 Infrastructure Security Agency;

10 “(I) the National Cyber Director;

11 “(J) the Comptroller General of the United
12 States; and

13 “(K) the inspector general of any impacted
14 agency.

15 “(2) AWARDEE.—The term ‘awardee’—

16 “(A) means a person, business, or other
17 entity that receives a grant from, or is a party
18 to a cooperative agreement or an other trans-
19 action agreement with, an agency; and

20 “(B) includes any subgrantee of a person,
21 business, or other entity described in subpara-
22 graph (A).

23 “(3) BREACH.—The term ‘breach’—

24 “(A) means the loss, control, compromise,
25 unauthorized disclosure, or unauthorized acqui-

1 sition of personally identifiable information or
2 any similar occurrence; and

3 “(B) includes any additional meaning
4 given the term in policies, principles, standards,
5 or guidelines issued by the Director under sec-
6 tion 3553(a).

7 “(4) CONTRACTOR.—The term ‘contractor’
8 means a prime contractor of an agency or a subcon-
9 tractor of a prime contractor of an agency.

10 “(5) FEDERAL INFORMATION.—The term ‘Fed-
11 eral information’ means information created, col-
12 lected, processed, maintained, disseminated, dis-
13 closed, or disposed of by or for the Federal Govern-
14 ment in any medium or form.

15 “(6) FEDERAL INFORMATION SYSTEM.—The
16 term ‘Federal information system’ means an infor-
17 mation system used or operated by an agency, a con-
18 tractor, an awardee, or another organization on be-
19 half of an agency.

20 “(7) INTELLIGENCE COMMUNITY.—The term
21 ‘intelligence community’ has the meaning given the
22 term in section 3 of the National Security Act of
23 1947 (50 U.S.C. 3003).

24 “(8) NATIONWIDE CONSUMER REPORTING
25 AGENCY.—The term ‘nationwide consumer reporting

1 agency’ means a consumer reporting agency de-
2 scribed in section 603(p) of the Fair Credit Report-
3 ing Act (15 U.S.C. 1681a(p)).

4 “(9) VULNERABILITY DISCLOSURE.—The term
5 ‘vulnerability disclosure’ means a vulnerability iden-
6 tified under section 3559B.

7 **“§ 3592. Notification of breach**

8 “(a) NOTIFICATION.—As expeditiously as practicable
9 and without unreasonable delay, and in any case not later
10 than 45 days after an agency has a reasonable basis to
11 conclude that a breach has occurred, the head of the agen-
12 cy, in consultation with a senior privacy officer of the
13 agency, shall—

14 “(1) determine whether notice to any individual
15 potentially affected by the breach is appropriate
16 based on an assessment of the risk of harm to the
17 individual that considers—

18 “(A) the nature and sensitivity of the per-
19 sonally identifiable information affected by the
20 breach;

21 “(B) the likelihood of access to and use of
22 the personally identifiable information affected
23 by the breach;

24 “(C) the type of breach; and

1 “(D) any other factors determined by the
2 Director; and

3 “(2) as appropriate, provide written notice in
4 accordance with subsection (b) to each individual po-
5 tentially affected by the breach—

6 “(A) to the last known mailing address of
7 the individual; or

8 “(B) through an appropriate alternative
9 method of notification that the head of the
10 agency or a designated senior-level individual of
11 the agency selects based on factors determined
12 by the Director.

13 “(b) CONTENTS OF NOTICE.—Each notice of a
14 breach provided to an individual under subsection (a)(2)
15 shall include—

16 “(1) a brief description of the breach;

17 “(2) if possible, a description of the types of
18 personally identifiable information affected by the
19 breach;

20 “(3) contact information of the agency that
21 may be used to ask questions of the agency, which—

22 “(A) shall include an e-mail address or an-
23 other digital contact mechanism; and

24 “(B) may include a telephone number,
25 mailing address, or a website;

1 “(4) information on any remedy being offered
2 by the agency;

3 “(5) any applicable educational materials relat-
4 ing to what individuals can do in response to a
5 breach that potentially affects their personally iden-
6 tifiable information, including relevant contact infor-
7 mation for Federal law enforcement agencies and
8 each nationwide consumer reporting agency; and

9 “(6) any other appropriate information, as de-
10 termined by the head of the agency or established in
11 guidance by the Director.

12 “(c) DELAY OF NOTIFICATION.—

13 “(1) IN GENERAL.—The Attorney General, the
14 Director of National Intelligence, or the Secretary of
15 Homeland Security may delay a notification required
16 under subsection (a) or (d) if the notification
17 would—

18 “(A) impede a criminal investigation or a
19 national security activity;

20 “(B) reveal sensitive sources and methods;

21 “(C) cause damage to national security; or

22 “(D) hamper security remediation actions.

23 “(2) DOCUMENTATION.—

24 “(A) IN GENERAL.—Any delay under para-
25 graph (1) shall be reported in writing to the Di-

1 rector, the Attorney General, the Director of
2 National Intelligence, the Secretary of Home-
3 land Security, the National Cyber Director, the
4 Director of the Cybersecurity and Infrastruc-
5 ture Security Agency, and the head of the agen-
6 cy and the inspector general of the agency that
7 experienced the breach.

8 “(B) CONTENTS.—A report required under
9 subparagraph (A) shall include a written state-
10 ment from the entity that delayed the notifica-
11 tion explaining the need for the delay.

12 “(C) FORM.—The report required under
13 subparagraph (A) shall be unclassified but may
14 include a classified annex.

15 “(3) RENEWAL.—A delay under paragraph (1)
16 shall be for a period of 60 days and may be renewed.

17 “(d) UPDATE NOTIFICATION.—If an agency deter-
18 mines there is a significant change in the reasonable basis
19 to conclude that a breach occurred, a significant change
20 to the determination made under subsection (a)(1), or that
21 it is necessary to update the details of the information pro-
22 vided to potentially affected individuals as described in
23 subsection (b), the agency shall as expeditiously as prac-
24 ticable and without unreasonable delay, and in any case
25 not later than 30 days after such a determination, notify

1 each individual who received a notification pursuant to
2 subsection (a) of those changes.

3 “(e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall be construed to limit—

5 “(1) the Director from issuing guidance relat-
6 ing to notifications or the head of an agency from
7 notifying individuals potentially affected by breaches
8 that are not determined to be major incidents; or

9 “(2) the Director from issuing guidance relat-
10 ing to notifications of major incidents or the head of
11 an agency from providing more information than de-
12 scribed in subsection (b) when notifying individuals
13 potentially affected by breaches.

14 **“§ 3593. Congressional and Executive Branch reports**

15 “(a) **INITIAL REPORT.**—

16 “(1) **IN GENERAL.**—Not later than 72 hours
17 after an agency has a reasonable basis to conclude
18 that a major incident occurred, the head of the
19 agency impacted by the major incident shall submit
20 to the appropriate reporting entities a written report
21 and, to the extent practicable, provide a briefing to
22 the Committee on Homeland Security and Govern-
23 mental Affairs of the Senate, the Committee on
24 Oversight and Reform of the House of Representa-
25 tives, the Committee on Homeland Security of the

1 House of Representatives, and the appropriate au-
2 thorization and appropriations committees of Con-
3 gress, taking into account—

4 “(A) the information known at the time of
5 the report;

6 “(B) the sensitivity of the details associ-
7 ated with the major incident; and

8 “(C) the classification level of the informa-
9 tion contained in the report.

10 “(2) CONTENTS.—A report required under
11 paragraph (1) shall include, in a manner that ex-
12 cludes or otherwise reasonably protects personally
13 identifiable information and to the extent permitted
14 by applicable law, including privacy and statistical
15 laws—

16 “(A) a summary of the information avail-
17 able about the major incident, including how
18 the major incident occurred, information indi-
19 cating that the major incident may be a breach,
20 and information relating to the major incident
21 as a breach, based on information available to
22 agency officials as of the date on which the
23 agency submits the report;

24 “(B) if applicable, a description and any
25 associated documentation of any circumstances

1 necessitating a delay in a notification to individ-
2 uals potentially affected by the major incident
3 under section 3592(c);

4 “(C) if applicable, an assessment of the
5 impacts to the agency, the Federal Government,
6 or the security of the United States, based on
7 information available to agency officials on the
8 date on which the agency submits the report;
9 and

10 “(D) if applicable, whether any ransom has
11 been demanded or paid, or plans to be paid, by
12 any entity operating a Federal information sys-
13 tem or with access to a Federal information
14 system, unless disclosure of such information
15 may disrupt an active Federal law enforcement
16 or national security operation.

17 “(b) SUPPLEMENTAL REPORT.—Within a reasonable
18 amount of time, but not later than 30 days after the date
19 on which an agency submits a written report under sub-
20 section (a), the head of the agency shall provide to the
21 appropriate reporting entities written updates, which may
22 include classified annexes, on the major incident and, to
23 the extent practicable, provide a briefing, which may in-
24 clude a classified component, to the congressional commit-

1 tees described in subsection (a)(1), including summaries
2 of—

3 “(1) vulnerabilities, means by which the major
4 incident occurred, and impacts to the agency relat-
5 ing to the major incident;

6 “(2) any risk assessment and subsequent risk-
7 based security implementation of the affected infor-
8 mation system before the date on which the major
9 incident occurred;

10 “(3) the status of compliance of the affected in-
11 formation system with applicable security require-
12 ments that are directly related to the cause of the
13 incident, at the time of the major incident;

14 “(4) an estimate of the number of individuals
15 potentially affected by the major incident based on
16 information available to agency officials as of the
17 date on which the agency provides the update;

18 “(5) an assessment of the risk of harm to indi-
19 viduals potentially affected by the major incident
20 based on information available to agency officials as
21 of the date on which the agency provides the update;

22 “(6) an update to the assessment of the risk to
23 agency operations, or to impacts on other agency or
24 non-Federal entity operations, affected by the major
25 incident based on information available to agency of-

1 officials as of the date on which the agency provides
2 the update;

3 “(7) the detection, response, and remediation
4 actions of the agency, including any support pro-
5 vided by the Cybersecurity and Infrastructure Secu-
6 rity Agency under section 3594(d) and status up-
7 dates on the notification process described in section
8 3592(a), including any delay described in section
9 3592(e), if applicable; and

10 “(8) if applicable, a description of any cir-
11 cumstances or data leading the head of the agency
12 to determine, pursuant to section 3592(a)(1), not to
13 notify individuals potentially impacted by a breach.

14 “(c) UPDATE REPORT.—If the agency determines
15 that there is any significant change in the understanding
16 of the agency of the scope, scale, or consequence of a
17 major incident for which an agency submitted a written
18 report under subsection (a), the agency shall provide an
19 updated report to the appropriate reporting entities that
20 includes information relating to the change in under-
21 standing.

22 “(d) BIENNIAL REPORT.—Each agency shall submit
23 as part of the biennial report required under section
24 3554(c)(1) of this title a description of each major inci-

1 dent that occurred during the 2-year period preceding the
2 date on which the biannual report is submitted.

3 “(e) DELAY AND LACK OF NOTIFICATION REPORT.—

4 “(1) IN GENERAL.—The Director shall submit
5 to the appropriate reporting entities an annual re-
6 port on all notification delays granted pursuant to
7 section 3592(c).

8 “(2) LACK OF BREACH NOTIFICATION.—The
9 Director shall submit to the appropriate reporting
10 entities an annual report on each breach with re-
11 spect to which the head of an agency determined,
12 pursuant to section 3592(a)(1), not to notify individ-
13 uals potentially impacted by the breach.

14 “(3) COMPONENT OF OTHER REPORT.—The Di-
15 rector may submit the report required under para-
16 graph (1) as a component of the annual report sub-
17 mitted under section 3597(b).

18 “(f) REPORT DELIVERY.—Any written report re-
19 quired to be submitted under this section may be sub-
20 mitted in a paper or electronic format.

21 “(g) THREAT BRIEFING.—

22 “(1) IN GENERAL.—Not later than 7 days after
23 the date on which an agency has a reasonable basis
24 to conclude that a major incident occurred, the head
25 of the agency, jointly with the Director, the National

1 Cyber Director and any other Federal entity deter-
2 mined appropriate by the National Cyber Director,
3 shall provide a briefing to the congressional commit-
4 tees described in subsection (a)(1) on the threat
5 causing the major incident.

6 “(2) COMPONENTS.—The briefing required
7 under paragraph (1)—

8 “(A) shall, to the greatest extent prac-
9 ticable, include an unclassified component; and

10 “(B) may include a classified component.

11 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to limit—

13 “(1) the ability of an agency to provide addi-
14 tional reports or briefings to Congress; or

15 “(2) Congress from requesting additional infor-
16 mation from agencies through reports, briefings, or
17 other means.

18 **“§ 3594. Government information sharing and inci-**
19 **dent response**

20 “(a) IN GENERAL.—

21 “(1) INCIDENT REPORTING.—Subject to the
22 limitations described in subsection (b), the head of
23 each agency shall provide any information relating
24 to any incident affecting the agency, whether the in-
25 formation is obtained by the Federal Government di-

1 rectly or indirectly, to the Cybersecurity and Infra-
2 structure Security Agency.

3 “(2) CONTENTS.—A provision of information
4 relating to an incident made by the head of an agen-
5 cy under paragraph (1) shall—

6 “(A) include detailed information about
7 the safeguards that were in place when the inci-
8 dent occurred;

9 “(B) whether the agency implemented the
10 safeguards described in subparagraph (A) cor-
11 rectly;

12 “(C) in order to protect against a similar
13 incident, identify—

14 “(i) how the safeguards described in
15 subparagraph (A) should be implemented
16 differently; and

17 “(ii) additional necessary safeguards;
18 and

19 “(D) include information to aid in incident
20 response, such as—

21 “(i) a description of the affected sys-
22 tems or networks;

23 “(ii) the estimated dates of when the
24 incident occurred; and

1 “(iii) information that could reason-
2 ably help identify the party that conducted
3 the incident or the cause of the incident,
4 subject to appropriate privacy protections.

5 “(3) INFORMATION SHARING.—The Director of
6 the Cybersecurity and Infrastructure Security Agen-
7 cy shall—

8 “(A) make incident information provided
9 under paragraph (1) available to the Director
10 and the National Cyber Director;

11 “(B) to the greatest extent practicable,
12 share information relating to an incident with
13 the head of any agency that may be—

14 “(i) impacted by the incident;

15 “(ii) similarly susceptible to the inci-
16 dent; or

17 “(iii) similarly targeted by the inci-
18 dent; and

19 “(C) coordinate any necessary information
20 sharing efforts relating to a major incident with
21 the private sector.

22 “(4) NATIONAL SECURITY SYSTEMS.—Each
23 agency operating or exercising control of a national
24 security system shall share information about inci-
25 dents that occur on national security systems with

1 the Director of the Cybersecurity and Infrastructure
2 Security Agency to the extent consistent with stand-
3 ards and guidelines for national security systems
4 issued in accordance with law and as directed by the
5 President.

6 “(b) COMPLIANCE.—In providing information and se-
7 lecting a method to provide information under subsection
8 (a), the head of each agency shall take into account the
9 level of classification of the information and any informa-
10 tion sharing limitations and protections, such as limita-
11 tions and protections relating to law enforcement, national
12 security, privacy, statistical confidentiality, or other fac-
13 tors determined by the Director in order to implement
14 subsection (a)(1) in a manner that enables automated and
15 consistent reporting to the greatest extent practicable.

16 “(c) INCIDENT RESPONSE.—Each agency that has a
17 reasonable basis to conclude that a major incident oc-
18 curred involving Federal information in electronic medium
19 or form that does not exclusively involve a national secu-
20 rity system, regardless of delays from notification granted
21 for a major incident that is also a breach, shall coordinate
22 with the Cybersecurity and Infrastructure Security Agen-
23 cy to facilitate asset response activities and provide rec-
24 ommendations for mitigating future incidents.

1 **“§ 3595. Responsibilities of contractors and awardees**

2 “(a) REPORTING.—

3 “(1) IN GENERAL.—Unless otherwise specified
4 in a contract, grant, cooperative agreement, or an
5 other transaction agreement, any contractor or
6 awardee of an agency shall report to the agency
7 within the same amount of time such agency is re-
8 quired to report an incident to the Cybersecurity
9 and Infrastructure Security Agency, if the con-
10 tractor or awardee has a reasonable basis to suspect
11 or conclude that—

12 “(A) an incident or breach has occurred
13 with respect to Federal information collected,
14 used, or maintained by the contractor or award-
15 ee in connection with the contract, grant, coop-
16 erative agreement, or other transaction agree-
17 ment of the contractor or awardee;

18 “(B) an incident or breach has occurred
19 with respect to a Federal information system
20 used or operated by the contractor or awardee
21 in connection with the contract, grant, coopera-
22 tive agreement, or other transaction agreement
23 of the contractor or awardee; or

24 “(C) the contractor or awardee has re-
25 ceived information from the agency that the
26 contractor or awardee is not authorized to re-

1 ceive in connection with the contract, grant, co-
2 operative agreement, or other transaction agree-
3 ment of the contractor or awardee.

4 “(2) PROCEDURES.—

5 “(A) MAJOR INCIDENT.—Following a re-
6 port of a breach or major incident by a con-
7 tractor or awardee under paragraph (1), the
8 agency, in consultation with the contractor or
9 awardee, shall carry out the requirements under
10 sections 3592, 3593, and 3594 with respect to
11 the major incident.

12 “(B) INCIDENT.—Following a report of an
13 incident by a contractor or awardee under para-
14 graph (1), an agency, in consultation with the
15 contractor or awardee, shall carry out the re-
16 quirements under section 3594 with respect to
17 the incident.

18 “(b) EFFECTIVE DATE.—This section shall apply—

19 “(1) on and after the date that is 1 year after
20 the date of enactment of the Federal Information
21 Security Modernization Act of 2022; and

22 “(2) with respect to any contract entered into
23 on or after the date described in paragraph (1).

1 **“§ 3596. Training**

2 “(a) COVERED INDIVIDUAL DEFINED.—In this sec-
3 tion, the term ‘covered individual’ means an individual
4 who obtains access to Federal information or Federal in-
5 formation systems because of the status of the individual
6 as an employee, contractor, awardee, volunteer, or intern
7 of an agency.

8 “(b) REQUIREMENT.—The head of each agency shall
9 develop training for covered individuals on how to identify
10 and respond to an incident, including—

11 “(1) the internal process of the agency for re-
12 porting an incident; and

13 “(2) the obligation of a covered individual to re-
14 port to the agency a confirmed major incident and
15 any suspected incident involving information in any
16 medium or form, including paper, oral, and elec-
17 tronic.

18 “(c) INCLUSION IN ANNUAL TRAINING.—The train-
19 ing developed under subsection (b) may be included as
20 part of an annual privacy or security awareness training
21 of an agency.

22 **“§ 3597. Analysis and report on Federal incidents**

23 “(a) ANALYSIS OF FEDERAL INCIDENTS.—

24 “(1) QUANTITATIVE AND QUALITATIVE ANAL-
25 YSES.—The Director of the Cybersecurity and Infra-
26 structure Security Agency shall develop, in consulta-

1 tion with the Director and the National Cyber Direc-
2 tor, and perform continuous monitoring and quan-
3 titative and qualitative analyses of incidents at agen-
4 cies, including major incidents, including—

5 “(A) the causes of incidents, including—

6 “(i) attacker tactics, techniques, and
7 procedures; and

8 “(ii) system vulnerabilities, including
9 zero days, unpatched systems, and infor-
10 mation system misconfigurations;

11 “(B) the scope and scale of incidents at
12 agencies;

13 “(C) common root causes of incidents
14 across multiple Federal agencies;

15 “(D) agency incident response, recovery,
16 and remediation actions and the effectiveness of
17 those actions, as applicable;

18 “(E) lessons learned and recommendations
19 in responding to, recovering from, remediating,
20 and mitigating future incidents; and

21 “(F) trends across multiple Federal agen-
22 cies to address intrusion detection and incident
23 response capabilities using the metrics estab-
24 lished under section 224(c) of the Cybersecurity
25 Act of 2015 (6 U.S.C. 1522(c)).

1 “(2) AUTOMATED ANALYSIS.—The analyses de-
2 veloped under paragraph (1) shall, to the greatest
3 extent practicable, use machine readable data, auto-
4 mation, and machine learning processes.

5 “(3) SHARING OF DATA AND ANALYSIS.—

6 “(A) IN GENERAL.—The Director shall
7 share on an ongoing basis the analyses required
8 under this subsection with agencies and the Na-
9 tional Cyber Director to—

10 “(i) improve the understanding of cy-
11 bersecurity risk of agencies; and

12 “(ii) support the cybersecurity im-
13 provement efforts of agencies.

14 “(B) FORMAT.—In carrying out subpara-
15 graph (A), the Director shall share the anal-
16 yses—

17 “(i) in human-readable written prod-
18 ucts; and

19 “(ii) to the greatest extent practicable,
20 in machine-readable formats in order to
21 enable automated intake and use by agen-
22 cies.

23 “(b) ANNUAL REPORT ON FEDERAL INCIDENTS.—

24 Not later than 2 years after the date of enactment of this
25 section, and not less frequently than annually thereafter,

1 the Director of the Cybersecurity and Infrastructure Secu-
2 rity Agency, in consultation with the Director, the Na-
3 tional Cyber Director and the heads of other Federal agen-
4 cies, as appropriate, shall submit to the appropriate re-
5 porting entities a report that includes—

6 “(1) a summary of causes of incidents from
7 across the Federal Government that categorizes
8 those incidents as incidents or major incidents;

9 “(2) the quantitative and qualitative analyses of
10 incidents developed under subsection (a)(1) on an
11 agency-by-agency basis and comprehensively across
12 the Federal Government, including—

13 “(A) a specific analysis of breaches; and

14 “(B) an analysis of the Federal Govern-
15 ment’s performance against the metrics estab-
16 lished under section 224(c) of the Cybersecurity
17 Act of 2015 (6 U.S.C. 1522(c)); and

18 “(3) an annex for each agency that includes—

19 “(A) a description of each major incident;

20 “(B) the total number of incidents of the
21 agency; and

22 “(C) an analysis of the agency’s perform-
23 ance against the metrics established under sec-
24 tion 224(c) of the Cybersecurity Act of 2015 (6
25 U.S.C. 1522(c)).

1 “(c) PUBLICATION.—

2 “(1) IN GENERAL.—A version of each report
3 submitted under subsection (b) shall be made pub-
4 licly available on the website of the Cybersecurity
5 and Infrastructure Security Agency during the year
6 in which the report is submitted.

7 “(2) EXEMPTION.—The Director of the Cyber-
8 security and Infrastructure Security Agency may ex-
9 empt all or a portion of a report described in para-
10 graph (1) from public publication if the Director of
11 the Cybersecurity and Infrastructure Security Agen-
12 cy determines the exemption is in the interest of na-
13 tional security.

14 “(3) LIMITATION ON EXEMPTION.—An exemp-
15 tion granted under paragraph (2) shall not apply to
16 any version of a report submitted to the appropriate
17 reporting entities under subsection (b).

18 “(d) INFORMATION PROVIDED BY AGENCIES.—

19 “(1) IN GENERAL.—The analysis required
20 under subsection (a) and each report submitted
21 under subsection (b) shall use information provided
22 by agencies under section 3594(a).

23 “(2) NONCOMPLIANCE REPORTS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), during any year during which the

1 head of an agency does not provide data for an
2 incident to the Cybersecurity and Infrastructure
3 Security Agency in accordance with section
4 3594(a), the head of the agency, in coordina-
5 tion with the Director of the Cybersecurity and
6 Infrastructure Security Agency and the Direc-
7 tor, shall submit to the appropriate reporting
8 entities a report that includes the information
9 described in subsection (b) with respect to the
10 agency.

11 “(B) EXCEPTION FOR NATIONAL SECURITY
12 SYSTEMS.—The head of an agency that owns or
13 exercises control of a national security system
14 shall not include data for an incident that oc-
15 curs on a national security system in any report
16 submitted under subparagraph (A).

17 “(3) NATIONAL SECURITY SYSTEM REPORTS.—

18 “(A) IN GENERAL.—Annually, the head of
19 an agency that operates or exercises control of
20 a national security system shall submit a report
21 that includes the information described in sub-
22 section (b) with respect to the national security
23 system to the extent that the submission is con-
24 sistent with standards and guidelines for na-

1 tional security systems issued in accordance
2 with law and as directed by the President to—

3 “(i) the majority and minority leaders
4 of the Senate,

5 “(ii) the Speaker and minority leader
6 of the House of Representatives;

7 “(iii) the Committee on Homeland Se-
8 curity and Governmental Affairs of the
9 Senate;

10 “(iv) the Select Committee on Intel-
11 ligence of the Senate;

12 “(v) the Committee on Armed Serv-
13 ices of the Senate;

14 “(vi) the Committee on Appropria-
15 tions of the Senate;

16 “(vii) the Committee on Oversight and
17 Reform of the House of Representatives;

18 “(viii) the Committee on Homeland
19 Security of the House of Representatives;

20 “(ix) the Permanent Select Committee
21 on Intelligence of the House of Represent-
22 atives;

23 “(x) the Committee on Armed Serv-
24 ices of the House of Representatives; and

1 “(xi) the Committee on Appropria-
2 tions of the House of Representatives.

3 “(B) CLASSIFIED FORM.—A report re-
4 quired under subparagraph (A) may be sub-
5 mitted in a classified form.

6 “(e) REQUIREMENT FOR COMPILING INFORMA-
7 TION.—In publishing the public report required under
8 subsection (c), the Director of the Cybersecurity and In-
9 frastructure Security Agency shall sufficiently compile in-
10 formation such that no specific incident of an agency can
11 be identified, except with the concurrence of the Director
12 of the Office of Management and Budget and in consulta-
13 tion with the impacted agency.

14 “§ 3598. Major incident definition

15 “(a) IN GENERAL.—Not later than 180 days after
16 the date of enactment of the Federal Information Security
17 Modernization Act of 2022, the Director, in coordination
18 with the Director of the Cybersecurity and Infrastructure
19 Security Agency and the National Cyber Director, shall
20 develop and promulgate guidance on the definition of the
21 term ‘major incident’ for the purposes of subchapter II
22 and this subchapter.

23 “(b) REQUIREMENTS.—With respect to the guidance
24 issued under subsection (a), the definition of the term
25 ‘major incident’ shall—

1 “(1) include, with respect to any information
2 collected or maintained by or on behalf of an agency
3 or an information system used or operated by an
4 agency or by a contractor of an agency or another
5 organization on behalf of an agency—

6 “(A) any incident the head of the agency
7 determines is likely to have an impact on—

8 “(i) the national security, homeland
9 security, or economic security of the
10 United States; or

11 “(ii) the civil liberties or public health
12 and safety of the people of the United
13 States;

14 “(B) any incident the head of the agency
15 determines likely to result in an inability for the
16 agency, a component of the agency, or the Fed-
17 eral Government, to provide 1 or more critical
18 services;

19 “(C) any incident that the head of an
20 agency, in consultation with a senior privacy of-
21 ficer of the agency, determines is likely to have
22 a significant privacy impact on 1 or more indi-
23 vidual;

24 “(D) any incident that the head of the
25 agency, in consultation with a senior privacy of-

1 ficial of the agency, determines is likely to have
2 a substantial privacy impact on a significant
3 number of individuals;

4 “(E) any incident the head of the agency
5 determines substantially disrupts the operations
6 of a high value asset owned or operated by the
7 agency;

8 “(F) any incident involving the exposure of
9 sensitive agency information to a foreign entity,
10 such as the communications of the head of the
11 agency, the head of a component of the agency,
12 or the direct reports of the head of the agency
13 or the head of a component of the agency; and

14 “(G) any other type of incident determined
15 appropriate by the Director;

16 “(2) stipulate that the National Cyber Director,
17 in consultation with the Director, shall declare a
18 major incident at each agency impacted by an inci-
19 dent if it is determined that an incident—

20 “(A) occurs at not less than 2 agencies;

21 and

22 “(B) is enabled by—

23 “(i) a common technical root cause,
24 such as a supply chain compromise, a com-
25 mon software or hardware vulnerability; or

1 “(ii) the related activities of a com-
2 mon threat actor; and

3 “(3) stipulate that, in determining whether an
4 incident constitutes a major incident because that
5 incident is any incident described in paragraph (1),
6 the head of the agency shall consult with the Na-
7 tional Cyber Director and may consult with the Di-
8 rector of the Cybersecurity and Infrastructure Secu-
9 rity Agency.

10 “(c) SIGNIFICANT NUMBER OF INDIVIDUALS.—In de-
11 termining what constitutes a significant number of indi-
12 viduals under subsection (b)(1)(D), the Director—

13 “(1) may determine a threshold for a minimum
14 number of individuals that constitutes a significant
15 amount; and

16 “(2) may not determine a threshold described
17 in paragraph (1) that exceeds 5,000 individuals.

18 “(d) EVALUATION AND UPDATES.—Not later than 2
19 years after the date of enactment of the Federal Informa-
20 tion Security Modernization Act of 2022, and not less fre-
21 quently than every 2 years thereafter, the Director shall
22 provide a briefing to the Committee on Homeland Security
23 and Governmental Affairs of the Senate and the Com-
24 mittee on Oversight and Reform of the House of Rep-
25 resentatives, which shall include—

1 “(1) an evaluation of any necessary updates to
2 the guidance issued under subsection (a);

3 “(2) an evaluation of any necessary updates to
4 the definition of the term ‘major incident’ included
5 in the guidance issued under subsection (a); and

6 “(3) an explanation of, and the analysis that
7 led to, the definition described in paragraph (2).”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions for chapter 35 of title 44, United States Code,
10 is amended by adding at the end the following:

“SUBCHAPTER IV—FEDERAL SYSTEM INCIDENT RESPONSE

“3591. Definitions

“3592. Notification of breach

“3593. Congressional and Executive Branch reports

“3594. Government information sharing and incident response

“3595. Responsibilities of contractors and awardees

“3596. Training

“3597. Analysis and report on Federal incidents

“3598. Major incident definition”.

11 **SEC. 104. AMENDMENTS TO SUBTITLE III OF TITLE 40.**

12 (a) MODERNIZING GOVERNMENT TECHNOLOGY.—
13 Subtitle G of title X of Division A of the National Defense
14 Authorization Act for Fiscal Year 2018 (40 U.S.C. 11301
15 note) is amended in section 1078—

16 (1) by striking subsection (a) and inserting the
17 following:

18 “(a) DEFINITIONS.—In this section:

19 “(1) AGENCY.—The term ‘agency’ has the
20 meaning given the term in section 551 of title 5,
21 United States Code.

1 “(2) HIGH VALUE ASSET.—The term ‘high
2 value asset’ has the meaning given the term in sec-
3 tion 3552 of title 44, United States Code.”;

4 (2) in subsection (b), by adding at the end the
5 following:

6 “(8) PROPOSAL EVALUATION.—The Director
7 shall—

8 “(A) give consideration for the use of
9 amounts in the Fund to improve the security of
10 high value assets; and

11 “(B) require that any proposal for the use
12 of amounts in the Fund includes a cybersecu-
13 rity plan, including a supply chain risk manage-
14 ment plan, to be reviewed by the member of the
15 Technology Modernization Board described in
16 subsection (c)(5)(C).”; and

17 (3) in subsection (c)—

18 (A) in paragraph (2)(A)(i), by inserting “,
19 including a consideration of the impact on high
20 value assets” after “operational risks”;

21 (B) in paragraph (5)—

22 (i) in subparagraph (A), by striking
23 “and” at the end;

1 (ii) in subparagraph (B), by striking
2 the period at the end and inserting “and”;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(C) a senior official from the Cybersecu-
7 rity and Infrastructure Security Agency of the
8 Department of Homeland Security, appointed
9 by the Director.”; and

10 (C) in paragraph (6)(A), by striking “shall
11 be—” and all that follows through “4 employ-
12 ees” and inserting “shall be 4 employees”.

13 (b) SUBCHAPTER I.—Subchapter I of chapter 113 of
14 subtitle III of title 40, United States Code, is amended—

15 (1) in section 11302—

16 (A) in subsection (b), by striking “use, se-
17 curity, and disposal of” and inserting “use, and
18 disposal of, and, in consultation with the Direc-
19 tor of the Cybersecurity and Infrastructure Se-
20 curity Agency and the National Cyber Director,
21 promote and improve the security of,”;

22 (B) in subsection (c)—

23 (i) in paragraph (3)—

24 (I) in subparagraph (A)—

1 (aa) by striking “including
2 data” and inserting “which
3 shall—
4 “(i) include data”; and
5 (bb) by adding at the end
6 the following:
7 “(ii) specifically denote cybersecurity
8 funding under the risk-based cyber budget
9 model developed pursuant to section
10 3553(a)(7) of title 44.”; and
11 (II) in subparagraph (B), by add-
12 ing at the end the following:
13 “(iii) The Director shall provide to the
14 National Cyber Director any cybersecurity
15 funding information described in subpara-
16 graph (A)(ii) that is provided to the Direc-
17 tor under clause (ii) of this subpara-
18 graph.”;
19 (C) in subsection (f)—
20 (i) by striking “heads of executive
21 agencies to develop” and inserting “heads
22 of executive agencies to—
23 “(1) develop”;

1 (ii) in paragraph (1), as so des-
2 ignated, by striking the period at the end
3 and inserting “; and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(2) consult with the Director of the Cybersecu-
7 rity and Infrastructure Security Agency for the de-
8 velopment and use of supply chain security best
9 practices.”; and

10 (D) in subsection (h), by inserting “, in-
11 cluding cybersecurity performances,” after “the
12 performances”; and

13 (2) in section 11303(b)—

14 (A) in paragraph (2)(B)—

15 (i) in clause (i), by striking “or” at
16 the end;

17 (ii) in clause (ii), by adding “or” at
18 the end; and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(iii) whether the function should be
22 performed by a shared service offered by
23 another executive agency;”; and

24 (B) in paragraph (5)(B)(i), by inserting “,
25 while taking into account the risk-based cyber

1 budget model developed pursuant to section
2 3553(a)(7) of title 44” after “title 31”.

3 (c) SUBCHAPTER II.—Subchapter II of chapter 113
4 of subtitle III of title 40, United States Code, is amend-
5 ed—

6 (1) in section 11312(a), by inserting “, includ-
7 ing security risks” after “managing the risks”;

8 (2) in section 11313(1), by striking “efficiency
9 and effectiveness” and inserting “efficiency, security,
10 and effectiveness”;

11 (3) in section 11315, by adding at the end the
12 following:

13 “(d) COMPONENT AGENCY CHIEF INFORMATION OF-
14 FICERS.—The Chief Information Officer or an equivalent
15 official of a component agency shall report to—

16 “(1) the Chief Information Officer designated
17 under section 3506(a)(2) of title 44 or an equivalent
18 official of the agency of which the component agency
19 is a component; and

20 “(2) the head of the component agency.

21 “(e) REPORTING STRUCTURE EXEMPTION.—

22 “(1) IN GENERAL.—On annual basis, the Direc-
23 tor may exempt any agency from the reporting
24 structure requirements under subsection (d).

1 “(2) REPORT.—On an annual basis, the Direc-
2 tor shall submit to the Committee on Homeland Se-
3 curity and Governmental Affairs of the Senate and
4 the Committee on Oversight and Reform of the
5 House of Representatives a report that includes a
6 list of each exemption granted under paragraph (1)
7 and the associated rationale for each exemption.

8 “(3) COMPONENT OF OTHER REPORT.—The re-
9 port required under paragraph (2) may be incor-
10 porated into any other annual report required under
11 chapter 35 of title 44, United States Code.”;

12 (4) in section 11317, by inserting “security,”
13 before “or schedule”; and

14 (5) in section 11319(b)(1), in the paragraph
15 heading, by striking “CIOS” and inserting “CHIEF
16 INFORMATION OFFICERS”.

17 **SEC. 105. ACTIONS TO ENHANCE FEDERAL INCIDENT**
18 **TRANSPARENCY.**

19 (a) RESPONSIBILITIES OF THE CYBERSECURITY AND
20 INFRASTRUCTURE SECURITY AGENCY.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this Act, the Director
23 of the Cybersecurity and Infrastructure Security
24 Agency shall—

1 (A) develop a plan for the development of
2 the analysis required under section 3597(a) of
3 title 44, United States Code, as added by this
4 title, and the report required under subsection
5 (b) of that section that includes—

6 (i) a description of any challenges the
7 Director of the Cybersecurity and Infra-
8 structure Security Agency anticipates en-
9 countering; and

10 (ii) the use of automation and ma-
11 chine-readable formats for collecting, com-
12 piling, monitoring, and analyzing data; and

13 (B) provide to the appropriate congres-
14 sional committees a briefing on the plan devel-
15 oped under subparagraph (A).

16 (2) BRIEFING.—Not later than 1 year after the
17 date of enactment of this Act, the Director of the
18 Cybersecurity and Infrastructure Security Agency
19 shall provide to the appropriate congressional com-
20 mittees a briefing on—

21 (A) the execution of the plan required
22 under paragraph (1)(A); and

23 (B) the development of the report required
24 under section 3597(b) of title 44, United States
25 Code, as added by this title.

1 (b) RESPONSIBILITIES OF THE DIRECTOR OF THE
2 OFFICE OF MANAGEMENT AND BUDGET.—

3 (1) FISMA.—Section 2 of the Federal Informa-
4 tion Security Modernization Act of 2014 (44 U.S.C.
5 3554 note) is amended—

6 (A) by striking subsection (b); and

7 (B) by redesignating subsections (c)
8 through (f) as subsections (b) through (e), re-
9 spectively.

10 (2) INCIDENT DATA SHARING.—

11 (A) IN GENERAL.—The Director shall de-
12 velop guidance, to be updated not less fre-
13 quently than once every 2 years, on the content,
14 timeliness, and format of the information pro-
15 vided by agencies under section 3594(a) of title
16 44, United States Code, as added by this title.

17 (B) REQUIREMENTS.—The guidance devel-
18 oped under subparagraph (A) shall—

19 (i) prioritize the availability of data
20 necessary to understand and analyze—

21 (I) the causes of incidents;

22 (II) the scope and scale of inci-
23 dents within the environments and
24 systems of an agency;

- 1 (III) a root cause analysis of in-
2 cidents that—
- 3 (aa) are common across the
4 Federal Government; or
- 5 (bb) have a Government-
6 wide impact;
- 7 (IV) agency response, recovery,
8 and remediation actions and the effec-
9 tiveness of those actions; and
- 10 (V) the impact of incidents;
- 11 (ii) enable the efficient development
12 of—
- 13 (I) lessons learned and rec-
14 ommendations in responding to, recov-
15 ering from, remediating, and miti-
16 gating future incidents; and
- 17 (II) the report on Federal inci-
18 dents required under section 3597(b)
19 of title 44, United States Code, as
20 added by this title;
- 21 (iii) include requirements for the time-
22 liness of data production; and
- 23 (iv) include requirements for using
24 automation and machine-readable data for
25 data sharing and availability.

1 (3) GUIDANCE ON RESPONDING TO INFORMA-
2 TION REQUESTS.—Not later than 1 year after the
3 date of enactment of this Act, the Director shall de-
4 velop guidance for agencies to implement the re-
5 quirement under section 3594(c) of title 44, United
6 States Code, as added by this title, to provide infor-
7 mation to other agencies experiencing incidents.

8 (4) STANDARD GUIDANCE AND TEMPLATES.—
9 Not later than 1 year after the date of enactment
10 of this Act, the Director, in consultation with the
11 Director of the Cybersecurity and Infrastructure Se-
12 curity Agency, shall develop guidance and templates,
13 to be reviewed and, if necessary, updated not less
14 frequently than once every 2 years, for use by Fed-
15 eral agencies in the activities required under sections
16 3592, 3593, and 3596 of title 44, United States
17 Code, as added by this title.

18 (5) CONTRACTOR AND AWARDEE GUIDANCE.—

19 (A) IN GENERAL.—Not later than 1 year
20 after the date of enactment of this Act, the Di-
21 rector, in coordination with the Secretary of
22 Homeland Security, the Secretary of Defense,
23 the Administrator of General Services, and the
24 heads of other agencies determined appropriate
25 by the Director, shall issue guidance to Federal

1 agencies on how to deconflict, to the greatest
2 extent practicable, existing regulations, policies,
3 and procedures relating to the responsibilities of
4 contractors and awardees established under sec-
5 tion 3595 of title 44, United States Code, as
6 added by this title.

7 (B) EXISTING PROCESSES.—To the great-
8 est extent practicable, the guidance issued
9 under subparagraph (A) shall allow contractors
10 and awardees to use existing processes for noti-
11 fying Federal agencies of incidents involving in-
12 formation of the Federal Government.

13 (6) UPDATED BRIEFINGS.—Not less frequently
14 than once every 2 years, the Director shall provide
15 to the appropriate congressional committees an up-
16 date on the guidance and templates developed under
17 paragraphs (2) through (4).

18 (c) UPDATE TO THE PRIVACY ACT OF 1974.—Sec-
19 tion 552a(b) of title 5, United States Code (commonly
20 known as the “Privacy Act of 1974”) is amended—

21 (1) in paragraph (11), by striking “or” at the
22 end;

23 (2) in paragraph (12), by striking the period at
24 the end and inserting “; or”; and

25 (3) by adding at the end the following:

1 “(13) to another agency in furtherance of a re-
2 sponse to an incident (as defined in section 3552 of
3 title 44) and pursuant to the information sharing re-
4 quirements in section 3594 of title 44 if the head of
5 the requesting agency has made a written request to
6 the agency that maintains the record specifying the
7 particular portion desired and the activity for which
8 the record is sought.”.

9 **SEC. 106. ADDITIONAL GUIDANCE TO AGENCIES ON FISMA**
10 **UPDATES.**

11 Not later than 1 year after the date of enactment
12 of this Act, the Director, in consultation with the Director
13 of the Cybersecurity and Infrastructure Security Agency,
14 shall issue guidance for agencies on—

15 (1) performing the ongoing and continuous
16 agency system risk assessment required under sec-
17 tion 3554(a)(1)(A) of title 44, United States Code,
18 as amended by this title;

19 (2) implementing additional cybersecurity pro-
20 cedures, which shall include resources for shared
21 services;

22 (3) establishing a process for providing the sta-
23 tus of each remedial action under section 3554(b)(7)
24 of title 44, United States Code, as amended by this
25 title, to the Director and the Cybersecurity and In-

1 frastructure Security Agency using automation and
 2 machine-readable data, as practicable, which shall
 3 include—

4 (A) specific guidance for the use of auto-
 5 mation and machine-readable data; and

6 (B) templates for providing the status of
 7 the remedial action; and

8 (4) a requirement to coordinate with inspectors
 9 general of agencies to ensure consistent under-
 10 standing and application of agency policies for the
 11 purpose of evaluations by inspectors general.

12 **SEC. 107. AGENCY REQUIREMENTS TO NOTIFY PRIVATE**
 13 **SECTOR ENTITIES IMPACTED BY INCIDENTS.**

14 (a) DEFINITIONS.—In this section:

15 (1) REPORTING ENTITY.—The term “reporting
 16 entity” means private organization or governmental
 17 unit that is required by statute or regulation to sub-
 18 mit sensitive information to an agency.

19 (2) SENSITIVE INFORMATION.—The term “sen-
 20 sitive information” has the meaning given the term
 21 by the Director in guidance issued under subsection

22 (b).

23 (b) GUIDANCE ON NOTIFICATION OF REPORTING EN-
 24 TITIES.—Not later than 180 days after the date of enact-
 25 ment of this Act, the Director shall issue guidance requir-

1 ing the head of each agency to notify a reporting entity
2 of an incident that is likely to substantially affect—

3 (1) the confidentiality or integrity of sensitive
4 information submitted by the reporting entity to the
5 agency pursuant to a statutory or regulatory re-
6 quirement; or

7 (2) the agency information system or systems
8 used in the transmission or storage of the sensitive
9 information described in paragraph (1).

10 **SEC. 108. MOBILE SECURITY STANDARDS.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of this Act, the Director shall—

13 (1) evaluate mobile application security guid-
14 ance promulgated by the Director; and

15 (2) issue guidance to secure mobile devices, in-
16 cluding for mobile applications, for every agency.

17 (b) CONTENTS.—The guidance issued under sub-
18 section (a)(2) shall include—

19 (1) a requirement, pursuant to section
20 3506(b)(4) of title 44, United States Code, for every
21 agency to maintain a continuous inventory of
22 every—

23 (A) mobile device operated by or on behalf
24 of the agency; and

1 (B) vulnerability identified by the agency
2 associated with a mobile device; and

3 (2) a requirement for every agency to perform
4 continuous evaluation of the vulnerabilities described
5 in paragraph (1)(B) and other risks associated with
6 the use of applications on mobile devices.

7 (c) INFORMATION SHARING.—The Director, in co-
8 ordination with the Director of the Cybersecurity and In-
9 frastructure Security Agency, shall issue guidance to
10 agencies for sharing the inventory of the agency required
11 under subsection (b)(1) with the Director of the Cyberse-
12 curity and Infrastructure Security Agency, using automa-
13 tion and machine-readable data to the greatest extent
14 practicable.

15 (d) BRIEFING.—Not later than 60 days after the date
16 on which the Director issues guidance under subsection
17 (a)(2), the Director, in coordination with the Director of
18 the Cybersecurity and Infrastructure Security Agency,
19 shall provide to the appropriate congressional committees
20 a briefing on the guidance.

21 **SEC. 109. DATA AND LOGGING RETENTION FOR INCIDENT**
22 **RESPONSE.**

23 (a) RECOMMENDATIONS.—Not later than 2 years
24 after the date of enactment of this Act, and not less fre-
25 quently than every 2 years thereafter, the Director of the

1 Cybersecurity and Infrastructure Security Agency, in con-
2 sultation with the Attorney General, shall submit to the
3 Director recommendations on requirements for logging
4 events on agency systems and retaining other relevant
5 data within the systems and networks of an agency.

6 (b) CONTENTS.—The recommendations provided
7 under subsection (a) shall include—

8 (1) the types of logs to be maintained;

9 (2) the duration that logs and other relevant
10 data should be retained;

11 (3) the time periods for agency implementation
12 of recommended logging and security requirements;

13 (4) how to ensure the confidentiality, integrity,
14 and availability of logs;

15 (5) requirements to ensure that, upon request,
16 in a manner that excludes or otherwise reasonably
17 protects personally identifiable information, and to
18 the extent permitted by applicable law (including
19 privacy and statistical laws), agencies provide logs
20 to—

21 (A) the Director of the Cybersecurity and
22 Infrastructure Security Agency for a cybersecu-
23 rity purpose; and

24 (B) the Director of the Federal Bureau of
25 Investigation, or the appropriate Federal law

1 enforcement agency, to investigate potential
2 criminal activity; and

3 (6) requirements to ensure that, subject to com-
4 pliance with statistical laws and other relevant data
5 protection requirements, the highest level security
6 operations center of each agency has visibility into
7 all agency logs.

8 (c) GUIDANCE.—Not later than 90 days after receiv-
9 ing the recommendations submitted under subsection (a),
10 the Director, in consultation with the Director of the Cy-
11 bersecurity and Infrastructure Security Agency and the
12 Attorney General, shall, as determined to be appropriate
13 by the Director, update guidance to agencies regarding re-
14 quirements for logging, log retention, log management,
15 sharing of log data with other appropriate agencies, or any
16 other logging activity determined to be appropriate by the
17 Director.

18 (d) SUNSET.—This section shall cease to have force
19 or effect on the date that is 10 years after the date of
20 the enactment of this Act.

21 **SEC. 110. CISA AGENCY ADVISORS.**

22 (a) IN GENERAL.—Not later than 120 days after the
23 date of enactment of this Act, the Director of the Cyberse-
24 curity and Infrastructure Security Agency shall assign not
25 less than 1 cybersecurity professional employed by the Cy-

1 bersecurity and Infrastructure Security Agency to be the
2 Cybersecurity and Infrastructure Security Agency advisor
3 to the senior agency information security officer of each
4 agency.

5 (b) QUALIFICATIONS.—Each advisor assigned under
6 subsection (a) shall have knowledge of—

7 (1) cybersecurity threats facing agencies, in-
8 cluding any specific threats to the assigned agency;

9 (2) performing risk assessments of agency sys-
10 tems; and

11 (3) other Federal cybersecurity initiatives.

12 (c) DUTIES.—The duties of each advisor assigned
13 under subsection (a) shall include—

14 (1) providing ongoing assistance and advice, as
15 requested, to the agency Chief Information Officer;

16 (2) serving as an incident response point of
17 contact between the assigned agency and the Cyber-
18 security and Infrastructure Security Agency; and

19 (3) familiarizing themselves with agency sys-
20 tems, processes, and procedures to better facilitate
21 support to the agency in responding to incidents.

22 (d) LIMITATION.—An advisor assigned under sub-
23 section (a) shall not be a contractor.

1 (e) MULTIPLE ASSIGNMENTS.—One individual advi-
 2 sor may be assigned to multiple agency Chief Information
 3 Officers under subsection (a).

4 **SEC. 111. FEDERAL PENETRATION TESTING POLICY.**

5 (a) IN GENERAL.—Subchapter II of chapter 35 of
 6 title 44, United States Code, is amended by adding at the
 7 end the following:

8 **“§ 3559A. Federal penetration testing**

9 “(a) DEFINITIONS.—In this section:

10 “(1) AGENCY OPERATIONAL PLAN.—The term
 11 ‘agency operational plan’ means a plan of an agency
 12 for the use of penetration testing.

13 “(2) RULES OF ENGAGEMENT.—The term
 14 ‘rules of engagement’ means a set of rules estab-
 15 lished by an agency for the use of penetration test-
 16 ing.

17 “(b) GUIDANCE.—

18 “(1) IN GENERAL.—The Director, in consulta-
 19 tion with the Secretary, acting through the Director
 20 of the Cybersecurity and Infrastructure Security
 21 Agency, shall issue guidance to agencies that—

22 “(A) requires agencies to use, when and
 23 where appropriate, penetration testing on agen-
 24 cy systems by both Federal and non-Federal en-
 25 tities; and

1 “(B) requires agencies to develop an agen-
2 cy operational plan and rules of engagement
3 that meet the requirements under subsection
4 (c).

5 “(2) PENETRATION TESTING GUIDANCE.—The
6 guidance issued under this section shall—

7 “(A) permit an agency to use, for the pur-
8 pose of performing penetration testing—

9 “(i) a shared service of the agency or
10 another agency; or

11 “(ii) an external entity, such as a ven-
12 dor; and

13 “(B) require agencies to provide the rules
14 of engagement and results of penetration test-
15 ing to the Director and the Director of the Cy-
16 bersecurity and Infrastructure Security Agency,
17 without regard to the status of the entity that
18 performs the penetration testing.

19 “(c) AGENCY PLANS AND RULES OF ENGAGE-
20 MENT.—The agency operational plan and rules of engage-
21 ment of an agency shall—

22 “(1) require the agency to—

23 “(A) perform penetration testing, including
24 on the high value assets of the agency; or

1 “(B) coordinate with the Director of the
2 Cybersecurity and Infrastructure Security
3 Agency to ensure that penetration testing is
4 being performed;

5 “(2) establish guidelines for avoiding, as a re-
6 sult of penetration testing—

7 “(A) adverse impacts to the operations of
8 the agency;

9 “(B) adverse impacts to operational envi-
10 ronments and systems of the agency; and

11 “(C) inappropriate access to data;

12 “(3) require the results of penetration testing
13 to include feedback to improve the cybersecurity of
14 the agency; and

15 “(4) include mechanisms for providing consist-
16 ently formatted, and, if applicable, automated and
17 machine-readable, data to the Director and the Di-
18 rector of the Cybersecurity and Infrastructure Secu-
19 rity Agency.

20 “(d) RESPONSIBILITIES OF CISA.—The Director of
21 the Cybersecurity and Infrastructure Security Agency
22 shall—

23 “(1) establish a process to assess the perform-
24 ance of penetration testing by both Federal and non-

1 Federal entities that establishes minimum quality
2 controls for penetration testing;

3 “(2) develop operational guidance for insti-
4 tuting penetration testing programs at agencies;

5 “(3) develop and maintain a centralized capa-
6 bility to offer penetration testing as a service to
7 Federal and non-Federal entities; and

8 “(4) provide guidance to agencies on the best
9 use of penetration testing resources.

10 “(e) RESPONSIBILITIES OF OMB.—The Director, in
11 coordination with the Director of the Cybersecurity and
12 Infrastructure Security Agency, shall—

13 “(1) not less frequently than annually, inven-
14 tory all Federal penetration testing assets; and

15 “(2) develop and maintain a standardized proc-
16 ess for the use of penetration testing.

17 “(f) PRIORITIZATION OF PENETRATION TESTING RE-
18 SOURCES.—

19 “(1) IN GENERAL.—The Director, in coordina-
20 tion with the Director of the Cybersecurity and In-
21 frastructure Security Agency, shall develop a frame-
22 work for prioritizing Federal penetration testing re-
23 sources among agencies.

1 “(2) CONSIDERATIONS.—In developing the
2 framework under this subsection, the Director shall
3 consider—

4 “(A) agency system risk assessments per-
5 formed under section 3554(a)(1)(A);

6 “(B) the Federal risk assessment per-
7 formed under section 3553(i);

8 “(C) the analysis of Federal incident data
9 performed under section 3597; and

10 “(D) any other information determined ap-
11 propriate by the Director or the Director of the
12 Cybersecurity and Infrastructure Security
13 Agency.

14 “(g) EXCEPTION FOR NATIONAL SECURITY SYS-
15 TEMS.—The guidance issued under subsection (b) shall
16 not apply to national security systems.

17 “(h) DELEGATION OF AUTHORITY FOR CERTAIN
18 SYSTEMS.—The authorities of the Director described in
19 subsection (b) shall be delegated—

20 “(1) to the Secretary of Defense in the case of
21 systems described in section 3553(e)(2); and

22 “(2) to the Director of National Intelligence in
23 the case of systems described in 3553(e)(3).”.

24 (b) DEADLINE FOR GUIDANCE.—Not later than 180
25 days after the date of enactment of this Act, the Director

1 shall issue the guidance required under section 3559A(b)
2 of title 44, United States Code, as added by subsection
3 (a).

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for chapter 35 of title 44, United States Code, is amended
6 by adding after the item relating to section 3559 the fol-
7 lowing:

“3559A. Federal penetration testing.”.

8 (d) SUNSET.—

9 (1) IN GENERAL.—Effective on the date that is
10 10 years after the date of enactment of this Act,
11 subchapter II of chapter 35 of title 44, United
12 States Code, is amended by striking section 3559A.

13 (2) CLERICAL AMENDMENT.—Effective on the
14 date that is 10 years after the date of enactment of
15 this Act, the table of sections for chapter 35 of title
16 44, United States Code, is amended by striking the
17 item relating to section 3559A.

18 **SEC. 112. ONGOING THREAT HUNTING PROGRAM.**

19 (a) THREAT HUNTING PROGRAM.—

20 (1) IN GENERAL.—Not later than 540 days
21 after the date of enactment of this Act, the Director
22 of the Cybersecurity and Infrastructure Security
23 Agency shall establish a program to provide ongoing,
24 hypothesis-driven threat-hunting services on the net-
25 work of each agency.

1 (2) PLAN.—Not later than 180 days after the
2 date of enactment of this Act, the Director of the
3 Cybersecurity and Infrastructure Security Agency
4 shall develop a plan to establish the program re-
5 quired under paragraph (1) that describes how the
6 Director of the Cybersecurity and Infrastructure Se-
7 curity Agency plans to—

8 (A) determine the method for collecting,
9 storing, accessing, analyzing, and safeguarding
10 appropriate agency data;

11 (B) provide on-premises support to agen-
12 cies;

13 (C) staff threat hunting services;

14 (D) allocate available human and financial
15 resources to implement the plan; and

16 (E) provide input to the heads of agencies
17 on the use of additional cybersecurity proce-
18 dures under section 3554 of title 44, United
19 States Code.

20 (b) REPORTS.—The Director of the Cybersecurity
21 and Infrastructure Security Agency shall submit to the ap-
22 propriate congressional committees—

23 (1) not later than 30 days after the date on
24 which the Director of the Cybersecurity and Infra-
25 structure Security Agency completes the plan re-

1 quired under subsection (a)(2), a report on the plan
2 to provide threat hunting services to agencies;

3 (2) not less than 30 days before the date on
4 which the Director of the Cybersecurity and Infra-
5 structure Security Agency begins providing threat
6 hunting services under the program under sub-
7 section (a)(1), a report providing any updates to the
8 plan developed under subsection (a)(2); and

9 (3) not later than 1 year after the date on
10 which the Director of the Cybersecurity and Infra-
11 structure Security Agency begins providing threat
12 hunting services to agencies other than the Cyberse-
13 curity and Infrastructure Security Agency, a report
14 describing lessons learned from providing those serv-
15 ices.

16 **SEC. 113. CODIFYING VULNERABILITY DISCLOSURE PRO-**
17 **GRAMS.**

18 (a) IN GENERAL.—Chapter 35 of title 44, United
19 States Code, is amended by inserting after section 3559A,
20 as added by section 111 of this title, the following:

21 **“§ 3559B. Federal vulnerability disclosure programs**

22 “(a) PURPOSE; SENSE OF CONGRESS.—

23 “(1) PURPOSE.—The purpose of Federal vul-
24 nerability disclosure programs is to create a mecha-
25 nism to use the expertise of the public to provide a

1 service to Federal agencies by identifying informa-
2 tion system vulnerabilities.

3 “(2) SENSE OF CONGRESS.—It is the sense of
4 Congress that, in implementing the requirements of
5 this section, the Federal Government should take
6 appropriate steps to reduce real and perceived bur-
7 dens in communications between agencies and secu-
8 rity researchers.

9 “(b) DEFINITIONS.—In this section:

10 “(1) REPORT.—The term ‘report’ means a vul-
11 nerability disclosure made to an agency by a re-
12 porter.

13 “(2) REPORTER.—The term ‘reporter’ means
14 an individual that submits a vulnerability report
15 pursuant to the vulnerability disclosure process of an
16 agency.

17 “(c) RESPONSIBILITIES OF OMB.—

18 “(1) LIMITATION ON LEGAL ACTION.—The Di-
19 rector, in consultation with the Attorney General,
20 shall issue guidance to agencies to not recommend or
21 pursue legal action against a reporter or an indi-
22 vidual that conducts a security research activity that
23 the head of the agency determines—

1 “(A) represents a good faith effort to fol-
2 low the vulnerability disclosure policy of the
3 agency developed under subsection (e)(2); and

4 “(B) is authorized under the vulnerability
5 disclosure policy of the agency developed under
6 subsection (e)(2).

7 “(2) SHARING INFORMATION WITH CISA.—The
8 Director, in coordination with the Director of the
9 Cybersecurity and Infrastructure Security Agency
10 and in consultation with the National Cyber Direc-
11 tor, shall issue guidance to agencies on sharing rel-
12 evant information in a consistent, automated, and
13 machine readable manner with the Director of the
14 Cybersecurity and Infrastructure Security Agency,
15 including—

16 “(A) any valid or credible reports of newly
17 discovered or not publicly known vulnerabilities
18 (including misconfigurations) on Federal infor-
19 mation systems that use commercial software or
20 services;

21 “(B) information relating to vulnerability
22 disclosure, coordination, or remediation activi-
23 ties of an agency, particularly as those activities
24 relate to outside organizations—

1 “(i) with which the head of the agency
2 believes the Director of the Cybersecurity
3 and Infrastructure Security Agency can as-
4 sist; or

5 “(ii) about which the head of the
6 agency believes the Director of the Cyber-
7 security and Infrastructure Security Agen-
8 cy should know; and

9 “(C) any other information with respect to
10 which the head of the agency determines helpful
11 or necessary to involve the Director of the Cy-
12 bersecurity and Infrastructure Security Agency.

13 “(3) AGENCY VULNERABILITY DISCLOSURE
14 POLICIES.—The Director shall issue guidance to
15 agencies on the required minimum scope of agency
16 systems covered by the vulnerability disclosure policy
17 of an agency required under subsection (e)(2).

18 “(d) RESPONSIBILITIES OF CISA.—The Director of
19 the Cybersecurity and Infrastructure Security Agency
20 shall—

21 “(1) provide support to agencies with respect to
22 the implementation of the requirements of this sec-
23 tion;

24 “(2) develop tools, processes, and other mecha-
25 nisms determined appropriate to offer agencies capa-

1 bilities to implement the requirements of this sec-
2 tion; and

3 “(3) upon a request by an agency, assist the
4 agency in the disclosure to vendors of newly identi-
5 fied vulnerabilities in vendor products and services.

6 “(e) RESPONSIBILITIES OF AGENCIES.—

7 “(1) PUBLIC INFORMATION.—The head of each
8 agency shall make publicly available, with respect to
9 each internet domain under the control of the agen-
10 cy that is not a national security system—

11 “(A) an appropriate security contact; and

12 “(B) the component of the agency that is
13 responsible for the internet accessible services
14 offered at the domain.

15 “(2) VULNERABILITY DISCLOSURE POLICY.—

16 The head of each agency shall develop and make
17 publicly available a vulnerability disclosure policy for
18 the agency, which shall—

19 “(A) describe—

20 “(i) the scope of the systems of the
21 agency included in the vulnerability disclo-
22 sure policy;

23 “(ii) the type of information system
24 testing that is authorized by the agency;

1 “(iii) the type of information system
2 testing that is not authorized by the agen-
3 cy; and

4 “(iv) the disclosure policy of the agen-
5 cy for sensitive information;

6 “(B) with respect to a report to an agency,
7 describe—

8 “(i) how the reporter should submit
9 the report; and

10 “(ii) if the report is not anonymous,
11 when the reporter should anticipate an ac-
12 knowledgment of receipt of the report by
13 the agency;

14 “(C) include any other relevant informa-
15 tion; and

16 “(D) be mature in scope and cover every
17 internet accessible Federal information system
18 used or operated by that agency or on behalf of
19 that agency.

20 “(3) IDENTIFIED VULNERABILITIES.—The head
21 of each agency shall incorporate any vulnerabilities
22 reported under paragraph (2) into the vulnerability
23 management process of the agency in order to track
24 and remediate the vulnerability.

1 “(f) CONGRESSIONAL REPORTING.—Not later than
2 90 days after the date of enactment of the Federal Infor-
3 mation Security Modernization Act of 2022, and annually
4 thereafter for a 3-year period, the Director of the Cyberse-
5 curity and Infrastructure Security Agency, in consultation
6 with the Director, shall provide to the Committee on
7 Homeland Security and Governmental Affairs of the Sen-
8 ate and the Committee on Oversight and Reform of the
9 House of Representatives a briefing on the status of the
10 use of vulnerability disclosure policies under this section
11 at agencies, including, with respect to the guidance issued
12 under subsection (c)(3), an identification of the agencies
13 that are compliant and not compliant.

14 “(g) EXEMPTIONS.—The authorities and functions of
15 the Director and Director of the Cybersecurity and Infra-
16 structure Security Agency under this section shall not
17 apply to national security systems.

18 “(h) DELEGATION OF AUTHORITY FOR CERTAIN
19 SYSTEMS.—The authorities of the Director and the Direc-
20 tor of the Cybersecurity and Infrastructure Security Agen-
21 cy described in this section shall be delegated—

22 “(1) to the Secretary of Defense in the case of
23 systems described in section 3553(e)(2); and

1 “(2) to the Director of National Intelligence in
2 the case of systems described in section
3 3553(e)(3).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 35 of title 44, United States Code, is amended
6 by adding after the item relating to section 3559A, as
7 added by section 111, the following:

 “3559B. Federal vulnerability disclosure programs.”.

8 (c) SUNSET.—

9 (1) IN GENERAL.—Effective on the date that is
10 10 years after the date of enactment of this Act,
11 subchapter II of chapter 35 of title 44, United
12 States Code, is amended by striking section 3559B.

13 (2) CLERICAL AMENDMENT.—Effective on the
14 date that is 10 years after the date of enactment of
15 this Act, the table of sections for chapter 35 of title
16 44, United States Code, is amended by striking the
17 item relating to section 3559B.

18 **SEC. 114. IMPLEMENTING ZERO TRUST ARCHITECTURE.**

19 (a) GUIDANCE.—Not later than 18 months after the
20 date of enactment of this Act, the Director shall provide
21 an update to the appropriate congressional committees on
22 progress in increasing the internal defenses of agency sys-
23 tems, including—

1 (1) shifting away from “trusted networks” to
2 implement security controls based on a presumption
3 of compromise;

4 (2) implementing principles of least privilege in
5 administering information security programs;

6 (3) limiting the ability of entities that cause in-
7 cidents to move laterally through or between agency
8 systems;

9 (4) identifying incidents quickly;

10 (5) isolating and removing unauthorized entities
11 from agency systems as quickly as practicable, ac-
12 counting for intelligence or law enforcement pur-
13 poses;

14 (6) otherwise increasing the resource costs for
15 entities that cause incidents to be successful; and

16 (7) a summary of the agency progress reports
17 required under subsection (b).

18 (b) AGENCY PROGRESS REPORTS.—Not later than
19 270 days after the date of enactment of this Act, the head
20 of each agency shall submit to the Director a progress re-
21 port on implementing an information security program
22 based on the presumption of compromise and least privi-
23 lege principles, which shall include—

24 (1) a description of any steps the agency has
25 completed, including progress toward achieving re-

1 requirements issued by the Director, including the
2 adoption of any models or reference architecture;

3 (2) an identification of activities that have not
4 yet been completed and that would have the most
5 immediate security impact; and

6 (3) a schedule to implement any planned activi-
7 ties.

8 **SEC. 115. AUTOMATION REPORTS.**

9 (a) OMB REPORT.—Not later than 180 days after
10 the date of enactment of this Act, the Director shall pro-
11 vide to the appropriate congressional committees an up-
12 date on the use of automation under paragraphs (1),
13 (5)(C), and (8)(B) of section 3554(b) of title 44, United
14 States Code.

15 (b) GAO REPORT.—Not later than 1 year after the
16 date of enactment of this Act, the Comptroller General
17 of the United States shall perform a study on the use of
18 automation and machine readable data across the Federal
19 Government for cybersecurity purposes, including the
20 automated updating of cybersecurity tools, sensors, or
21 processes by agencies.

1 **SEC. 116. EXTENSION OF FEDERAL ACQUISITION SECURITY**
2 **COUNCIL AND SOFTWARE INVENTORY.**

3 (a) EXTENSION.—Section 1328 of title 41, United
4 States Code, is amended by striking “the date that” and
5 all that follows and inserting “December 31, 2026.”.

6 (b) REQUIREMENT.—Subsection 1326(b) of title 41,
7 United States Code, is amended—

8 (1) in paragraph (5), by striking “and” at the
9 end;

10 (2) by redesignating paragraph (6) as para-
11 graph (7); and

12 (3) by inserting after paragraph (5) the fol-
13 lowing:

14 “(6) maintaining an up-to-date and accurate in-
15 ventory of software in use by the agency and, if
16 available and applicable, the components of such
17 software, that can be communicated at the request
18 of the Federal Acquisition Security Council, the Na-
19 tional Cyber Director, or the Secretary of Homeland
20 Security, acting through the Director of Cybersecu-
21 rity and Infrastructure Security Agency; and”.

22 **SEC. 117. COUNCIL OF THE INSPECTORS GENERAL ON IN-**
23 **TEGRITY AND EFFICIENCY DASHBOARD.**

24 (a) DASHBOARD REQUIRED.—Section 11(e)(2) of the
25 Inspector General Act of 1978 (5 U.S.C. App.) is amend-
26 ed—

1 (1) in subparagraph (A), by striking “and” at
2 the end;

3 (2) by redesignating subparagraph (B) as sub-
4 paragraph (C); and

5 (3) by inserting after subparagraph (A) the fol-
6 lowing:

7 “(B) that shall include a dashboard of
8 open information security recommendations
9 identified in the independent evaluations re-
10 quired by section 3555(a) of title 44, United
11 States Code; and”.

12 **SEC. 118. QUANTITATIVE CYBERSECURITY METRICS.**

13 (a) **DEFINITION OF COVERED METRICS.**—In this sec-
14 tion, the term “covered metrics” means the metrics estab-
15 lished, reviewed, and updated under section 224(c) of the
16 Cybersecurity Act of 2015 (6 U.S.C. 1522(c)).

17 (b) **UPDATING AND ESTABLISHING METRICS.**—Not
18 later than 1 year after the date of enactment of this Act,
19 and as appropriate thereafter, the Director of the Cyberse-
20 curity and Infrastructure Security Agency, in coordination
21 with the Director, shall—

22 (1) evaluate any covered metrics established as
23 of the date of enactment of this Act; and

1 (2) as appropriate and pursuant to section
2 224(c) of the Cybersecurity Act of 2015 (6 U.S.C.
3 1522(c)) update or establish new covered metrics.

4 (c) IMPLEMENTATION.—

5 (1) IN GENERAL.—Not later than 540 days
6 after the date of enactment of this Act, the Director,
7 in coordination with the Director of the Cybersecu-
8 rity and Infrastructure Security Agency, shall pro-
9 mulgate guidance that requires each agency to use
10 covered metrics to track trends in the cybersecurity
11 and incident response capabilities of the agency.

12 (2) PERFORMANCE DEMONSTRATION.—The
13 guidance issued under paragraph (1) and any subse-
14 quent guidance shall require agencies to share with
15 the Director of the Cybersecurity and Infrastructure
16 Security Agency data demonstrating the perform-
17 ance of the agency using the covered metrics in-
18 cluded in the guidance.

19 (3) PENETRATION TESTS.—On not less than 2
20 occasions during the 2-year period following the date
21 on which guidance is promulgated under paragraph
22 (1), the Director shall ensure that not less than 3
23 agencies are subjected to substantially similar pene-
24 tration tests, as determined by the Director, in co-
25 ordination with the Director of the Cybersecurity

1 and Infrastructure Security Agency, in order to vali-
2 date the utility of the covered metrics.

3 (4) ANALYSIS CAPACITY.—The Director of the
4 Cybersecurity and Infrastructure Security Agency
5 shall develop a capability that allows for the analysis
6 of the covered metrics, including cross-agency per-
7 formance of agency cybersecurity and incident re-
8 sponse capability trends.

9 (5) TIME-BASED METRIC.—With respect the
10 first update or establishment of covered metrics re-
11 quired under subsection (b)(2), the Director of the
12 Cybersecurity and Infrastructure Security Agency
13 shall establish covered metrics that include not less
14 than 1 metric addressing the time it takes for agen-
15 cies to identify and respond to incidents.

16 (d) CONGRESSIONAL REPORTS.—Not later than 1
17 year after the date of enactment of this Act, the Director
18 of the Cybersecurity and Infrastructure Security Agency,
19 in coordination with the Director, shall submit to the ap-
20 propriate congressional committees a report on the utility
21 and use of the covered metrics.

22 **SEC. 119. ESTABLISHMENT OF RISK-BASED BUDGET**
23 **MODEL.**

24 (a) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs and the Committee
6 on Appropriations of the Senate; and

7 (B) the Committee on Oversight and Re-
8 form, the Committee on Homeland Security,
9 and the Committee on Appropriations of the
10 House of Representatives.

11 (2) COVERED AGENCY.—The term “covered
12 agency” has the meaning given the term “executive
13 agency” in section 133 of title 41, United States
14 Code.

15 (3) DIRECTOR.—The term “Director” means
16 the Director of the Office of Management and Budg-
17 et.

18 (4) INFORMATION TECHNOLOGY.—The term
19 “information technology”—

20 (A) has the meaning given the term in sec-
21 tion 11101 of title 40, United States Code; and

22 (B) includes the hardware and software
23 systems of a Federal agency that monitor and
24 control physical equipment and processes of the
25 Federal agency.

1 (5) RISK-BASED BUDGET.—The term “risk-
2 based budget” means a budget—

3 (A) developed by identifying and
4 prioritizing cybersecurity risks and
5 vulnerabilities, including impact on agency oper-
6 ations in the case of a cyber attack, through
7 analysis of cyber threat intelligence, incident
8 data, and tactics, techniques, procedures, and
9 capabilities of cyber threats; and

10 (B) that allocates resources based on the
11 risks identified and prioritized under subpara-
12 graph (A).

13 (b) ESTABLISHMENT OF RISK-BASED BUDGET
14 MODEL.—

15 (1) IN GENERAL.—

16 (A) MODEL.—Not later than 1 year after
17 the first publication of the budget submitted by
18 the President under section 1105 of title 31,
19 United States Code, following the date of enact-
20 ment of this Act, the Director, in consultation
21 with the Director of the Cybersecurity and In-
22 frastructure Security Agency and the National
23 Cyber Director and in coordination with the Di-
24 rector of the National Institute of Standards
25 and Technology, shall develop a standard model

1 for informing a risk-based budget for cybersecu-
2 rity spending.

3 (B) RESPONSIBILITY OF DIRECTOR.—Sec-
4 tion 3553(a) of title 44, United States Code, as
5 amended by section 103 of this title, is further
6 amended by inserting after paragraph (6) the
7 following:

8 “(7) developing a standard risk-based budget
9 model to inform Federal agency cybersecurity budget
10 development; and”.

11 (C) CONTENTS OF MODEL.—The model re-
12 quired to be developed under subparagraph (A)
13 shall utilize appropriate information to evaluate
14 risk, including, as determined appropriate by
15 the Director—

16 (i) Federal and non-Federal cyber
17 threat intelligence products, where avail-
18 able, to identify threats, vulnerabilities,
19 and risks;

20 (ii) analysis of the impact of agency
21 operations of compromise of systems, in-
22 cluding the interconnectivity to other agen-
23 cy systems and the operations of other
24 agencies; and

1 (iii) to the greatest extent practicable,
2 analysis of where resources should be allo-
3 cated to have the greatest impact on miti-
4 gating current and future threats and cur-
5 rent and future cybersecurity capabilities.

6 (D) USE OF MODEL.—The model required
7 to be developed under subparagraph (A) shall
8 be used to—

9 (i) inform acquisition and sustainment
10 of—

11 (I) information technology and
12 cybersecurity tools;

13 (II) information technology and
14 cybersecurity architectures;

15 (III) information technology and
16 cybersecurity personnel; and

17 (IV) cybersecurity and informa-
18 tion technology concepts of operations;
19 and

20 (ii) evaluate and inform Government-
21 wide cybersecurity programs.

22 (E) MODEL VARIATION.—The Director
23 may develop multiple models under subpara-
24 graph (A) based on different agency character-
25 istics, such as size or cybersecurity maturity.

1 (F) REQUIRED UPDATES.—Not less fre-
2 quently than once every 3 years, the Director
3 shall review, and update as necessary, the
4 model required to be developed under subpara-
5 graph (A).

6 (G) PUBLICATION.—Not earlier than 5
7 years after the date on which the model devel-
8 oped under subparagraph (A) is completed, the
9 Director shall, taking into account any classi-
10 fied or sensitive information, publish the model,
11 and any updates necessary under subparagraph
12 (F), on the public website of the Office of Man-
13 agement and Budget.

14 (H) REPORTS.—Not later than 2 years
15 after the first publication of the budget sub-
16 mitted by the President under section 1105 of
17 title 31, United States Code, following the date
18 of enactment of this Act, and annually there-
19 after for each of the 2 following fiscal years or
20 until the date on which the model required to
21 be developed under subparagraph (A) is com-
22 pleted, whichever is sooner, the Director shall
23 submit to the appropriate congressional com-
24 mittees a report on the development of the
25 model.

1 (2) PHASED IMPLEMENTATION OF RISK-BASED
2 BUDGET MODEL.—

3 (A) INITIAL PHASE.—

4 (i) IN GENERAL.—Not later than 2
5 years after the date on which the model
6 developed under paragraph (1) is com-
7 pleted, the Director shall require not less
8 than 5 covered agencies to use the model
9 to inform the development of the annual
10 cybersecurity and information technology
11 budget requests of those covered agencies.

12 (ii) BRIEFING.—Not later than 1 year
13 after the date on which the covered agen-
14 cies selected under clause (i) begin using
15 the model developed under paragraph (1),
16 the Director shall provide to the appro-
17 priate congressional committees a briefing
18 on implementation of risk-based budgeting
19 for cybersecurity spending, an assessment
20 of agency implementation, and an evalua-
21 tion of whether the risk-based budget helps
22 to mitigate cybersecurity vulnerabilities.

23 (B) FULL DEPLOYMENT.—Not later than
24 5 years after the date on which the model devel-
25 oped under paragraph (1) is completed, the

1 head of each covered agency shall use the
2 model, or any updated model pursuant to para-
3 graph (1)(F), to the greatest extent practicable,
4 to inform the development of the annual cyber-
5 security and information technology budget re-
6 quests of the covered agency.

7 (C) AGENCY PERFORMANCE PLANS.—

8 (i) AMENDMENT.—Section 3554(d)(2)
9 of title 44, United States Code, is amended
10 by inserting “and the risk-based budget
11 model required under section 3553(a)(7)”
12 after “paragraph (1)”.

13 (ii) EFFECTIVE DATE.—The amend-
14 ment made by clause (i) shall take effect
15 on the date that is 5 years after the date
16 on which the model developed under para-
17 graph (1) is completed.

18 (3) VERIFICATION.—

19 (A) IN GENERAL.—Section
20 1105(a)(35)(A)(i) of title 31, United States
21 Code, is amended—

22 (i) in the matter preceding subclause
23 (I), by striking “by agency, and by initia-
24 tive area (as determined by the administra-
25 tion)” and inserting “and by agency”;

1 (ii) in subclause (III), by striking
2 “and” at the end; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(V) a validation that the budg-
6 ets submitted were informed by using
7 a risk-based methodology; and

8 “(VI) a report on the progress of
9 each agency on closing recommenda-
10 tions identified under the independent
11 evaluation required by section
12 3555(a)(1) of title 44.”.

13 (B) EFFECTIVE DATE.—The amendments
14 made by subparagraph (A) shall take effect on
15 the date that is 5 years after the date on which
16 the model developed under paragraph (1) is
17 completed.

18 (4) REPORTS.—

19 (A) INDEPENDENT EVALUATION.—Section
20 3555(a)(2) of title 44, United States Code, is
21 amended—

22 (i) in subparagraph (B), by striking
23 “and” at the end;

1 (ii) in subparagraph (C), by striking
2 the period at the end and inserting “;
3 and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(D) an assessment of how the agency was
7 informed by the risk-based budget model re-
8 quired under section 3553(a)(7) and an evalua-
9 tion of whether the model mitigates agency
10 cyber vulnerabilities.”.

11 (B) ASSESSMENT.—

12 (i) AMENDMENT.—Section 3553(e) of
13 title 44, United States Code, as amended
14 by section 103 of this title, is further
15 amended by inserting after paragraph (5)
16 the following:

17 “(6) an assessment of—

18 “(A) Federal agency utilization of the
19 model required under subsection (a)(7); and

20 “(B) whether the model mitigates the
21 cyber vulnerabilities of the Federal Govern-
22 ment.”.

23 (ii) EFFECTIVE DATE.—The amend-
24 ment made by clause (i) shall take effect
25 on the date that is 5 years after the date

1 on which the model developed under para-
2 graph (1) is completed.

3 (5) GAO REPORT.—Not later than 3 years
4 after the date on which the first budget of the Presi-
5 dent is submitted to Congress containing the valida-
6 tion required under section 1105(a)(35)(A)(i)(V) of
7 title 31, United States Code, as amended by para-
8 graph (3), the Comptroller General of the United
9 States shall submit to the appropriate congressional
10 committees a report that includes—

11 (A) an evaluation of the success of covered
12 agencies in utilizing the risk-based budget
13 model;

14 (B) an evaluation of the success of covered
15 agencies in implementing risk-based budgets;

16 (C) an evaluation of whether the risk-based
17 budgets developed by covered agencies are effec-
18 tive at informing Federal Government-wide cy-
19 bersecurity programs; and

20 (D) any other information relating to risk-
21 based budgets the Comptroller General deter-
22 mines appropriate.

23 **SEC. 120. ACTIVE CYBER DEFENSIVE STUDY.**

24 (a) DEFINITION.—In this section, the term “active
25 defense technique”—

1 (1) means an action taken on the systems of an
2 entity to increase the security of information on the
3 network of an agency by misleading an adversary;
4 and

5 (2) includes a honeypot, deception, or purpose-
6 fully feeding false or misleading data to an adver-
7 sary when the adversary is on the systems of the en-
8 tity.

9 (b) STUDY.—Not later than 180 days after the date
10 of enactment of this Act, the Director of the Cybersecurity
11 and Infrastructure Security Agency, in coordination with
12 the Director and the National Cyber Director, shall per-
13 form a study on the use of active defense techniques to
14 enhance the security of agencies, which shall include—

15 (1) a review of legal restrictions on the use of
16 different active cyber defense techniques in Federal
17 environments, in consultation with the Department
18 of Justice;

19 (2) an evaluation of—

20 (A) the efficacy of a selection of active de-
21 fense techniques determined by the Director of
22 the Cybersecurity and Infrastructure Security
23 Agency; and

1 (B) factors that impact the efficacy of the
2 active defense techniques evaluated under sub-
3 paragraph (A);

4 (3) recommendations on safeguards and proce-
5 dures that shall be established to require that active
6 defense techniques are adequately coordinated to en-
7 sure that active defense techniques do not impede
8 agency operations and mission delivery, threat re-
9 sponse efforts, criminal investigations, and national
10 security activities, including intelligence collection;
11 and

12 (4) the development of a framework for the use
13 of different active defense techniques by agencies.

14 **SEC. 121. SECURITY OPERATIONS CENTER AS A SERVICE**
15 **PILOT.**

16 (a) PURPOSE.—The purpose of this section is for the
17 Cybersecurity and Infrastructure Security Agency to run
18 a security operation center on behalf of another agency,
19 alleviating the need to duplicate this function at every
20 agency, and empowering a greater centralized cybersecu-
21 rity capability.

22 (b) PLAN.—Not later than 1 year after the date of
23 enactment of this Act, the Director of the Cybersecurity
24 and Infrastructure Security Agency shall develop a plan
25 to establish a centralized Federal security operations cen-

1 ter shared service offering within the Cybersecurity and
2 Infrastructure Security Agency.

3 (c) CONTENTS.—The plan required under subsection
4 (b) shall include considerations for—

5 (1) collecting, organizing, and analyzing agency
6 information system data in real time;

7 (2) staffing and resources; and

8 (3) appropriate interagency agreements, con-
9 cepts of operations, and governance plans.

10 (d) PILOT PROGRAM.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date on which the plan required under sub-
13 section (b) is developed, the Director of the Cyberse-
14 curity and Infrastructure Security Agency, in con-
15 sultation with the Director, shall enter into a 1-year
16 agreement with not less than 2 agencies to offer a
17 security operations center as a shared service.

18 (2) ADDITIONAL AGREEMENTS.—After the date
19 on which the briefing required under subsection
20 (e)(1) is provided, the Director of the Cybersecurity
21 and Infrastructure Security Agency, in consultation
22 with the Director, may enter into additional 1-year
23 agreements described in paragraph (1) with agen-
24 cies.

25 (e) BRIEFING AND REPORT.—

1 (1) BRIEFING.—Not later than 270 days after
2 the date of enactment of this Act, the Director of
3 the Cybersecurity and Infrastructure Security Agen-
4 cy shall provide to the Committee on Homeland Se-
5 curity and Governmental Affairs of the Senate and
6 the Committee on Homeland Security and the Com-
7 mittee on Oversight and Reform of the House of
8 Representatives a briefing on the parameters of any
9 1-year agreements entered into under subsection
10 (d)(1).

11 (2) REPORT.—Not later than 90 days after the
12 date on which the first 1-year agreement entered
13 into under subsection (d) expires, the Director of the
14 Cybersecurity and Infrastructure Security Agency
15 shall submit to the Committee on Homeland Secu-
16 rity and Governmental Affairs of the Senate and the
17 Committee on Homeland Security and the Com-
18 mittee on Oversight and Reform of the House of
19 Representatives a report on—

20 (A) the agreement; and

21 (B) any additional agreements entered into
22 with agencies under subsection (d).

23 **SEC. 122. EXTENSION OF CHIEF DATA OFFICER COUNCIL.**

24 Section 3520A(e)(2) of title 44, United States Code,
25 is amended by striking “upon the expiration of the 2-year

1 period that begins on the date the Comptroller General
2 submits the report under paragraph (1) to Congress” and
3 inserting “January 31, 2030”.

4 **SEC. 123. FEDERAL CYBERSECURITY REQUIREMENTS.**

5 (a) EXEMPTION FROM FEDERAL REQUIREMENTS.—
6 Section 225(b)(2) of the Federal Cybersecurity Enhance-
7 ment Act of 2015 (6 U.S.C. 1523(b)(2)) is amended to
8 read as follows:

9 “(2) EXCEPTION.—

10 “(A) IN GENERAL.—A particular require-
11 ment under paragraph (1) shall not apply to an
12 agency information system of an agency if—

13 “(i) with respect to the agency infor-
14 mation system, the head of the agency sub-
15 mits to the Director an application for an
16 exemption from the particular requirement,
17 in which the head of the agency personally
18 certifies to the Director with particularity
19 that—

20 “(I) operational requirements ar-
21 ticulated in the certification and re-
22 lated to the agency information sys-
23 tem would make it excessively burden-
24 some to implement the particular re-
25 quirement;

1 “(II) the particular requirement
2 is not necessary to secure the agency
3 information system or agency infor-
4 mation stored on or transiting the
5 agency information system; and

6 “(III) the agency has taken all
7 necessary steps to secure the agency
8 information system and agency infor-
9 mation stored on or transiting the
10 agency information system;

11 “(ii) the head of the agency or the
12 designee of the head of the agency has
13 submitted the certification described in
14 clause (i) to the appropriate congressional
15 committees and any other congressional
16 committee with jurisdiction over the agen-
17 cy; and

18 “(iii) the Director grants the exemp-
19 tion from the particular requirement.

20 “(B) DURATION OF EXEMPTION.—

21 “(i) IN GENERAL.—An exemption
22 granted under subparagraph (A) shall ex-
23 pire on the date that is 1 year after the
24 date on which the Director granted the ex-
25 emption.

1 “(ii) RENEWAL.—Upon the expiration
2 of an exemption granted to an agency
3 under subparagraph (A), the head of the
4 agency may apply for an additional exemp-
5 tion.”.

6 (b) REPORT ON EXEMPTIONS.—Section 3554(e)(1)
7 of title 44, United States Code, as amended by section
8 103(c) of this title, is amended—

9 (1) in subparagraph (C), by striking “and” at
10 the end;

11 (2) in subparagraph (D), by striking the period
12 at the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(E) with respect to any exemption the Di-
15 rector of the Office of Management and Budget
16 has granted the agency under section 225(b)(2)
17 of the Federal Cybersecurity Enhancement Act
18 of 2015 (6 U.S.C. 1523(b)(2)) that is effective
19 on the date of submission of the report—

20 “(i) an identification of each par-
21 ticular requirement from which any agency
22 information system (as defined in section
23 2210 of the Homeland Security Act of
24 2002 (6 U.S.C. 660)) is exempted; and

1 “(ii) for each requirement identified
2 under clause (i)—

3 “(I) an identification of the agen-
4 cy information system described in
5 clause (i) exempted from the require-
6 ment; and

7 “(II) an estimate of the date on
8 which the agency will to be able to
9 comply with the requirement.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date that is 1 year
12 after the date of enactment of this Act.

13 **TITLE II—CYBER INCIDENT RE-**
14 **PORTING FOR CRITICAL IN-**
15 **FRASTRUCTURE ACT OF 2022**

16 **SEC. 201. SHORT TITLE.**

17 This title may be cited as the “Cyber Incident Re-
18 porting for Critical Infrastructure Act of 2022”.

19 **SEC. 202. DEFINITIONS.**

20 In this title:

21 (1) COVERED CYBER INCIDENT; COVERED ENTI-
22 TY; CYBER INCIDENT; INFORMATION SYSTEM; RAN-
23 SOM PAYMENT; RANSOMWARE ATTACK; SECURITY
24 VULNERABILITY.—The terms “covered cyber inci-
25 dent”, “covered entity”, “cyber incident”, “informa-

1 tion system”, “ransom payment”, “ransomware at-
2 tack”, and “security vulnerability” have the mean-
3 ings given those terms in section 2240 of the Home-
4 land Security Act of 2002, as added by section 203
5 of this title.

6 (2) DIRECTOR.—The term “Director” means
7 the Director of the Cybersecurity and Infrastructure
8 Security Agency.

9 **SEC. 203. CYBER INCIDENT REPORTING.**

10 (a) CYBER INCIDENT REPORTING.—Title XXII of
11 the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.)
12 is amended—

13 (1) in section 2209(c) (6 U.S.C. 659(c))—

14 (A) in paragraph (11), by striking “; and”
15 and inserting a semicolon;

16 (B) in paragraph (12), by striking the pe-
17 riod at the end and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(13) receiving, aggregating, and analyzing re-
20 ports related to covered cyber incidents (as defined
21 in section 2240) submitted by covered entities (as
22 defined in section 2240) and reports related to ran-
23 som payments (as defined in section 2240) sub-
24 mitted by covered entities (as defined in section
25 2240) in furtherance of the activities specified in

1 sections 2202(e), 2203, and 2241, this subsection,
 2 and any other authorized activity of the Director, to
 3 enhance the situational awareness of cybersecurity
 4 threats across critical infrastructure sectors.”; and

5 (2) by adding at the end the following:

6 **“Subtitle D—Cyber Incident**
 7 **Reporting**

8 **“SEC. 2240. DEFINITIONS.**

9 “In this subtitle:

10 “(1) CENTER.—The term ‘Center’ means the
 11 center established under section 2209.

12 “(2) CLOUD SERVICE PROVIDER.—The term
 13 ‘cloud service provider’ means an entity offering
 14 products or services related to cloud computing, as
 15 defined by the National Institute of Standards and
 16 Technology in NIST Special Publication 800–145
 17 and any amendatory or superseding document relat-
 18 ing thereto.

19 “(3) COUNCIL.—The term ‘Council’ means the
 20 Cyber Incident Reporting Council described in sec-
 21 tion 2246.

22 “(4) COVERED CYBER INCIDENT.—The term
 23 ‘covered cyber incident’ means a substantial cyber
 24 incident experienced by a covered entity that satis-
 25 fies the definition and criteria established by the Di-

1 rector in the final rule issued pursuant to section
2 2242(b).

3 “(5) COVERED ENTITY.—The term ‘covered en-
4 tity’ means an entity in a critical infrastructure sec-
5 tor, as defined in Presidential Policy Directive 21,
6 that satisfies the definition established by the Direc-
7 tor in the final rule issued pursuant to section
8 2242(b).

9 “(6) CYBER INCIDENT.—The term ‘cyber inci-
10 dent’—

11 “(A) has the meaning given the term ‘inci-
12 dent’ in section 2209; and

13 “(B) does not include an occurrence that
14 imminently, but not actually, jeopardizes—

15 “(i) information on information sys-
16 tems; or

17 “(ii) information systems.

18 “(7) CYBER THREAT.—The term ‘cyber threat’
19 has the meaning given the term ‘cybersecurity
20 threat’ in section 2201.

21 “(8) CYBER THREAT INDICATOR; CYBERSECU-
22 RITY PURPOSE; DEFENSIVE MEASURE; FEDERAL EN-
23 TITY; SECURITY VULNERABILITY.—The terms ‘cyber
24 threat indicator’, ‘cybersecurity purpose’, ‘defensive
25 measure’, ‘Federal entity’, and ‘security vulner-

1 ability’ have the meanings given those terms in sec-
2 tion 102 of the Cybersecurity Act of 2015 (6 U.S.C.
3 1501).

4 “(9) INCIDENT; SHARING.—The terms ‘inci-
5 dent’ and ‘sharing’ have the meanings given those
6 terms in section 2209.

7 “(10) INFORMATION SHARING AND ANALYSIS
8 ORGANIZATION.—The term ‘Information Sharing
9 and Analysis Organization’ has the meaning given
10 the term in section 2222.

11 “(11) INFORMATION SYSTEM.—The term ‘infor-
12 mation system’—

13 “(A) has the meaning given the term in
14 section 3502 of title 44, United States Code;
15 and

16 “(B) includes industrial control systems,
17 such as supervisory control and data acquisition
18 systems, distributed control systems, and pro-
19 grammable logic controllers.

20 “(12) MANAGED SERVICE PROVIDER.—The
21 term ‘managed service provider’ means an entity
22 that delivers services, such as network, application,
23 infrastructure, or security services, via ongoing and
24 regular support and active administration on the
25 premises of a customer, in the data center of the en-

1 tity (such as hosting), or in a third party data cen-
2 ter.

3 “(13) RANSOM PAYMENT.—The term ‘ransom
4 payment’ means the transmission of any money or
5 other property or asset, including virtual currency,
6 or any portion thereof, which has at any time been
7 delivered as ransom in connection with a
8 ransomware attack.

9 “(14) RANSOMWARE ATTACK.—The term
10 ‘ransomware attack’—

11 “(A) means an incident that includes the
12 use or threat of use of unauthorized or mali-
13 cious code on an information system, or the use
14 or threat of use of another digital mechanism
15 such as a denial of service attack, to interrupt
16 or disrupt the operations of an information sys-
17 tem or compromise the confidentiality, avail-
18 ability, or integrity of electronic data stored on,
19 processed by, or transiting an information sys-
20 tem to extort a demand for a ransom payment;
21 and

22 “(B) does not include any such event
23 where the demand for payment is—

24 “(i) not genuine; or

1 “(ii) made in good faith by an entity
2 in response to a specific request by the
3 owner or operator of the information sys-
4 tem.

5 “(15) SECTOR RISK MANAGEMENT AGENCY.—
6 The term ‘Sector Risk Management Agency’ has the
7 meaning given the term in section 2201.

8 “(16) SIGNIFICANT CYBER INCIDENT.—The
9 term ‘significant cyber incident’ means a cyber inci-
10 dent, or a group of related cyber incidents, that the
11 Secretary determines is likely to result in demon-
12 strable harm to the national security interests, for-
13 eign relations, or economy of the United States or
14 to the public confidence, civil liberties, or public
15 health and safety of the people of the United States.

16 “(17) SUPPLY CHAIN COMPROMISE.—The term
17 ‘supply chain compromise’ means an incident within
18 the supply chain of an information system that an
19 adversary can leverage or does leverage to jeopardize
20 the confidentiality, integrity, or availability of the in-
21 formation system or the information the system
22 processes, stores, or transmits, and can occur at any
23 point during the life cycle.

24 “(18) VIRTUAL CURRENCY.—The term ‘virtual
25 currency’ means the digital representation of value

1 that functions as a medium of exchange, a unit of
2 account, or a store of value.

3 “(19) VIRTUAL CURRENCY ADDRESS.—The
4 term ‘virtual currency address’ means a unique pub-
5 lic cryptographic key identifying the location to
6 which a virtual currency payment can be made.

7 **“SEC. 2241. CYBER INCIDENT REVIEW.**

8 “(a) ACTIVITIES.—The Center shall—

9 “(1) receive, aggregate, analyze, and secure,
10 using processes consistent with the processes devel-
11 oped pursuant to the Cybersecurity Information
12 Sharing Act of 2015 (6 U.S.C. 1501 et seq.) reports
13 from covered entities related to a covered cyber inci-
14 dent to assess the effectiveness of security controls,
15 identify tactics, techniques, and procedures adver-
16 saries use to overcome those controls and other cy-
17 bersecurity purposes, including to assess potential
18 impact of cyber incidents on public health and safety
19 and to enhance situational awareness of cyber
20 threats across critical infrastructure sectors;

21 “(2) coordinate and share information with ap-
22 propriate Federal departments and agencies to iden-
23 tify and track ransom payments, including those uti-
24 lizing virtual currencies;

1 “(3) leverage information gathered about cyber
2 incidents to—

3 “(A) enhance the quality and effectiveness
4 of information sharing and coordination efforts
5 with appropriate entities, including agencies,
6 sector coordinating councils, Information Shar-
7 ing and Analysis Organizations, State, local,
8 Tribal, and territorial governments, technology
9 providers, critical infrastructure owners and op-
10 erators, cybersecurity and cyber incident re-
11 sponse firms, and security researchers; and

12 “(B) provide appropriate entities, including
13 sector coordinating councils, Information Shar-
14 ing and Analysis Organizations, State, local,
15 Tribal, and territorial governments, technology
16 providers, cybersecurity and cyber incident re-
17 sponse firms, and security researchers, with
18 timely, actionable, and anonymized reports of
19 cyber incident campaigns and trends, including,
20 to the maximum extent practicable, related con-
21 textual information, cyber threat indicators, and
22 defensive measures, pursuant to section 2245;

23 “(4) establish mechanisms to receive feedback
24 from stakeholders on how the Agency can most ef-
25 fectively receive covered cyber incident reports, ran-

1 som payment reports, and other voluntarily provided
2 information, and how the Agency can most effec-
3 tively support private sector cybersecurity;

4 “(5) facilitate the timely sharing, on a vol-
5 untary basis, between relevant critical infrastructure
6 owners and operators of information relating to cov-
7 ered cyber incidents and ransom payments, particu-
8 larly with respect to ongoing cyber threats or secu-
9 rity vulnerabilities and identify and disseminate
10 ways to prevent or mitigate similar cyber incidents
11 in the future;

12 “(6) for a covered cyber incident, including a
13 ransomware attack, that also satisfies the definition
14 of a significant cyber incident, or is part of a group
15 of related cyber incidents that together satisfy such
16 definition, conduct a review of the details sur-
17 rounding the covered cyber incident or group of
18 those incidents and identify and disseminate ways to
19 prevent or mitigate similar incidents in the future;

20 “(7) with respect to covered cyber incident re-
21 ports under section 2242(a) and 2243 involving an
22 ongoing cyber threat or security vulnerability, imme-
23 diately review those reports for cyber threat indica-
24 tors that can be anonymized and disseminated, with
25 defensive measures, to appropriate stakeholders, in

1 coordination with other divisions within the Agency,
2 as appropriate;

3 “(8) publish quarterly unclassified, public re-
4 ports that describe aggregated, anonymized observa-
5 tions, findings, and recommendations based on cov-
6 ered cyber incident reports, which may be based on
7 the unclassified information contained in the brief-
8 ings required under subsection (c);

9 “(9) proactively identify opportunities, con-
10 sistent with the protections in section 2245, to lever-
11 age and utilize data on cyber incidents in a manner
12 that enables and strengthens cybersecurity research
13 carried out by academic institutions and other pri-
14 vate sector organizations, to the greatest extent
15 practicable; and

16 “(10) in accordance with section 2245 and sub-
17 section (b) of this section, as soon as possible but
18 not later than 24 hours after receiving a covered
19 cyber incident report, ransom payment report, volun-
20 tarily submitted information pursuant to section
21 2243, or information received pursuant to a request
22 for information or subpoena under section 2244,
23 make available the information to appropriate Sector
24 Risk Management Agencies and other appropriate
25 Federal agencies.

1 “(b) INTERAGENCY SHARING.—The President or a
2 designee of the President—

3 “(1) may establish a specific time requirement
4 for sharing information under subsection (a)(11);
5 and

6 “(2) shall determine the appropriate Federal
7 agencies under subsection (a)(11).

8 “(c) PERIODIC BRIEFING.—Not later than 60 days
9 after the effective date of the final rule required under
10 section 2242(b), and on the first day of each month there-
11 after, the Director, in consultation with the National
12 Cyber Director, the Attorney General, and the Director
13 of National Intelligence, shall provide to the majority lead-
14 er of the Senate, the minority leader of the Senate, the
15 Speaker of the House of Representatives, the minority
16 leader of the House of Representatives, the Committee on
17 Homeland Security and Governmental Affairs of the Sen-
18 ate, and the Committee on Homeland Security of the
19 House of Representatives a briefing that characterizes the
20 national cyber threat landscape, including the threat fac-
21 ing Federal agencies and covered entities, and applicable
22 intelligence and law enforcement information, covered
23 cyber incidents, and ransomware attacks, as of the date
24 of the briefing, which shall—

1 “(1) include the total number of reports sub-
2 mitted under sections 2242 and 2243 during the
3 preceding month, including a breakdown of required
4 and voluntary reports;

5 “(2) include any identified trends in covered
6 cyber incidents and ransomware attacks over the
7 course of the preceding month and as compared to
8 previous reports, including any trends related to the
9 information collected in the reports submitted under
10 sections 2242 and 2243, including—

11 “(A) the infrastructure, tactics, and tech-
12 niques malicious cyber actors commonly use;
13 and

14 “(B) intelligence gaps that have impeded,
15 or currently are impeding, the ability to counter
16 covered cyber incidents and ransomware
17 threats;

18 “(3) include a summary of the known uses of
19 the information in reports submitted under sections
20 2242 and 2243; and

21 “(4) include an unclassified portion, but may
22 include a classified component.

23 **“SEC. 2242. REQUIRED REPORTING OF CERTAIN CYBER IN-**
24 **CIDENTS.**

25 “(a) IN GENERAL.—

1 “(1) COVERED CYBER INCIDENT REPORTS.—

2 “(A) IN GENERAL.—A covered entity that
3 experiences a covered cyber incident shall report
4 the covered cyber incident to the Agency not
5 later than 72 hours after the covered entity rea-
6 sonably believes that the covered cyber incident
7 has occurred.

8 “(B) LIMITATION.—The Director may not
9 require reporting under subparagraph (A) any
10 earlier than 72 hours after the covered entity
11 reasonably believes that a covered cyber inci-
12 dent has occurred.

13 “(2) RANSOM PAYMENT REPORTS.—

14 “(A) IN GENERAL.—A covered entity that
15 makes a ransom payment as the result of a
16 ransomware attack against the covered entity
17 shall report the payment to the Agency not
18 later than 24 hours after the ransom payment
19 has been made.

20 “(B) APPLICATION.—The requirements
21 under subparagraph (A) shall apply even if the
22 ransomware attack is not a covered cyber inci-
23 dent subject to the reporting requirements
24 under paragraph (1).

1 “(3) SUPPLEMENTAL REPORTS.—A covered en-
2 tity shall promptly submit to the Agency an update
3 or supplement to a previously submitted covered
4 cyber incident report if substantial new or different
5 information becomes available or if the covered enti-
6 ty makes a ransom payment after submitting a cov-
7 ered cyber incident report required under paragraph
8 (1), until such date that such covered entity notifies
9 the Agency that the covered cyber incident at issue
10 has concluded and has been fully mitigated and re-
11 solved.

12 “(4) PRESERVATION OF INFORMATION.—Any
13 covered entity subject to requirements of paragraph
14 (1), (2), or (3) shall preserve data relevant to the
15 covered cyber incident or ransom payment in accord-
16 ance with procedures established in the final rule
17 issued pursuant to subsection (b).

18 “(5) EXCEPTIONS.—

19 “(A) REPORTING OF COVERED CYBER IN-
20 CIDENT WITH RANSOM PAYMENT.—If a covered
21 entity is the victim of a covered cyber incident
22 and makes a ransom payment prior to the 72
23 hour requirement under paragraph (1), such
24 that the reporting requirements under para-
25 graphs (1) and (2) both apply, the covered enti-

1 ty may submit a single report to satisfy the re-
2 quirements of both paragraphs in accordance
3 with procedures established in the final rule
4 issued pursuant to subsection (b).

5 “(B) SUBSTANTIALLY SIMILAR REPORTED
6 INFORMATION.—

7 “(i) IN GENERAL.—Subject to the
8 limitation described in clause (ii), where
9 the Agency has an agreement in place that
10 satisfies the requirements of section 4(a) of
11 the Cyber Incident Reporting for Critical
12 Infrastructure Act of 2022, the require-
13 ments under paragraphs (1), (2), and (3)
14 shall not apply to a covered entity required
15 by law, regulation, or contract to report
16 substantially similar information to an-
17 other Federal agency within a substantially
18 similar timeframe.

19 “(ii) LIMITATION.—The exemption in
20 clause (i) shall take effect with respect to
21 a covered entity once an agency agreement
22 and sharing mechanism is in place between
23 the Agency and the respective Federal
24 agency, pursuant to section 4(a) of the

1 Cyber Incident Reporting for Critical In-
2 frastructure Act of 2022.

3 “(iii) RULES OF CONSTRUCTION.—
4 Nothing in this paragraph shall be con-
5 strued to—

6 “(I) exempt a covered entity
7 from the reporting requirements
8 under paragraph (3) unless the sup-
9 plemental report also meets the re-
10 quirements of clauses (i) and (ii) of
11 this paragraph;

12 “(II) prevent the Agency from
13 contacting an entity submitting infor-
14 mation to another Federal agency
15 that is provided to the Agency pursu-
16 ant to section 4 of the Cyber Incident
17 Reporting for Critical Infrastructure
18 Act of 2022; or

19 “(III) prevent an entity from
20 communicating with the Agency.

21 “(C) DOMAIN NAME SYSTEM.—The re-
22 quirements under paragraphs (1), (2) and (3)
23 shall not apply to a covered entity or the func-
24 tions of a covered entity that the Director de-
25 termines constitute critical infrastructure

1 owned, operated, or governed by multi-stake-
2 holder organizations that develop, implement,
3 and enforce policies concerning the Domain
4 Name System, such as the Internet Corporation
5 for Assigned Names and Numbers or the Inter-
6 net Assigned Numbers Authority.

7 “(6) MANNER, TIMING, AND FORM OF RE-
8 PORTS.—Reports made under paragraphs (1), (2),
9 and (3) shall be made in the manner and form, and
10 within the time period in the case of reports made
11 under paragraph (3), prescribed in the final rule
12 issued pursuant to subsection (b).

13 “(7) EFFECTIVE DATE.—Paragraphs (1)
14 through (4) shall take effect on the dates prescribed
15 in the final rule issued pursuant to subsection (b).

16 “(b) RULEMAKING.—

17 “(1) NOTICE OF PROPOSED RULEMAKING.—Not
18 later than 24 months after the date of enactment of
19 this section, the Director, in consultation with Sector
20 Risk Management Agencies, the Department of Jus-
21 tice, and other Federal agencies, shall publish in the
22 Federal Register a notice of proposed rulemaking to
23 implement subsection (a).

24 “(2) FINAL RULE.—Not later than 18 months
25 after publication of the notice of proposed rule-

1 making under paragraph (1), the Director shall
2 issue a final rule to implement subsection (a).

3 “(3) SUBSEQUENT RULEMAKINGS.—

4 “(A) IN GENERAL.—The Director is au-
5 thorized to issue regulations to amend or revise
6 the final rule issued pursuant to paragraph (2).

7 “(B) PROCEDURES.—Any subsequent rules
8 issued under subparagraph (A) shall comply
9 with the requirements under chapter 5 of title
10 5, United States Code, including the issuance of
11 a notice of proposed rulemaking under section
12 553 of such title.

13 “(c) ELEMENTS.—The final rule issued pursuant to
14 subsection (b) shall be composed of the following elements:

15 “(1) A clear description of the types of entities
16 that constitute covered entities, based on—

17 “(A) the consequences that disruption to
18 or compromise of such an entity could cause to
19 national security, economic security, or public
20 health and safety;

21 “(B) the likelihood that such an entity
22 may be targeted by a malicious cyber actor, in-
23 cluding a foreign country; and

24 “(C) the extent to which damage, disrup-
25 tion, or unauthorized access to such an entity,

1 including the accessing of sensitive cybersecu-
2 rity vulnerability information or penetration
3 testing tools or techniques, will likely enable the
4 disruption of the reliable operation of critical
5 infrastructure.

6 “(2) A clear description of the types of substan-
7 tial cyber incidents that constitute covered cyber in-
8 cidents, which shall—

9 “(A) at a minimum, require the occurrence
10 of—

11 “(i) a cyber incident that leads to sub-
12 stantial loss of confidentiality, integrity, or
13 availability of such information system or
14 network, or a serious impact on the safety
15 and resiliency of operational systems and
16 processes;

17 “(ii) a disruption of business or indus-
18 trial operations, including due to a denial
19 of service attack, ransomware attack, or
20 exploitation of a zero day vulnerability,
21 against

22 “(I) an information system or
23 network; or

24 “(II) an operational technology
25 system or process; or

1 “(iii) unauthorized access or disrup-
2 tion of business or industrial operations
3 due to loss of service facilitated through,
4 or caused by, a compromise of a cloud
5 service provider, managed service provider,
6 or other third-party data hosting provider
7 or by a supply chain compromise;

8 “(B) consider—

9 “(i) the sophistication or novelty of
10 the tactics used to perpetrate such a cyber
11 incident, as well as the type, volume, and
12 sensitivity of the data at issue;

13 “(ii) the number of individuals di-
14 rectly or indirectly affected or potentially
15 affected by such a cyber incident; and

16 “(iii) potential impacts on industrial
17 control systems, such as supervisory con-
18 trol and data acquisition systems, distrib-
19 uted control systems, and programmable
20 logic controllers; and

21 “(C) exclude—

22 “(i) any event where the cyber inci-
23 dent is perpetrated in good faith by an en-
24 tity in response to a specific request by the

1 owner or operator of the information sys-
2 tem; and

3 “(ii) the threat of disruption as extor-
4 tion, as described in section 2240(14)(A).

5 “(3) A requirement that, if a covered cyber inci-
6 dent or a ransom payment occurs following an ex-
7 empted threat described in paragraph (2)(C)(ii), the
8 covered entity shall comply with the requirements in
9 this subtitle in reporting the covered cyber incident
10 or ransom payment.

11 “(4) A clear description of the specific required
12 contents of a report pursuant to subsection (a)(1),
13 which shall include the following information, to the
14 extent applicable and available, with respect to a
15 covered cyber incident:

16 “(A) A description of the covered cyber inci-
17 dent, including—

18 “(i) identification and a description of
19 the function of the affected information
20 systems, networks, or devices that were, or
21 are reasonably believed to have been, af-
22 fected by such cyber incident;

23 “(ii) a description of the unauthorized
24 access with substantial loss of confiden-
25 tiality, integrity, or availability of the af-

1 affected information system or network or
2 disruption of business or industrial oper-
3 ations;

4 “(iii) the estimated date range of such
5 incident; and

6 “(iv) the impact to the operations of
7 the covered entity.

8 “(B) Where applicable, a description of the
9 vulnerabilities exploited and the security de-
10 fenses that were in place, as well as the tactics,
11 techniques, and procedures used to perpetrate
12 the covered cyber incident.

13 “(C) Where applicable, any identifying or
14 contact information related to each actor rea-
15 sonably believed to be responsible for such cyber
16 incident.

17 “(D) Where applicable, identification of
18 the category or categories of information that
19 were, or are reasonably believed to have been,
20 accessed or acquired by an unauthorized per-
21 son.

22 “(E) The name and other information that
23 clearly identifies the covered entity impacted by
24 the covered cyber incident, including, as appli-
25 cable, the State of incorporation or formation of

1 the covered entity, trade names, legal names, or
2 other identifiers.

3 “(F) Contact information, such as tele-
4 phone number or electronic mail address, that
5 the Agency may use to contact the covered enti-
6 ty or an authorized agent of such covered enti-
7 ty, or, where applicable, the service provider of
8 such covered entity acting with the express per-
9 mission of, and at the direction of, the covered
10 entity to assist with compliance with the re-
11 quirements of this subtitle.

12 “(5) A clear description of the specific required
13 contents of a report pursuant to subsection (a)(2),
14 which shall be the following information, to the ex-
15 tent applicable and available, with respect to a ran-
16 som payment:

17 “(A) A description of the ransomware at-
18 tack, including the estimated date range of the
19 attack.

20 “(B) Where applicable, a description of the
21 vulnerabilities, tactics, techniques, and proce-
22 dures used to perpetrate the ransomware at-
23 tack.

24 “(C) Where applicable, any identifying or
25 contact information related to the actor or ac-

1 tors reasonably believed to be responsible for
2 the ransomware attack.

3 “(D) The name and other information that
4 clearly identifies the covered entity that made
5 the ransom payment or on whose behalf the
6 payment was made.

7 “(E) Contact information, such as tele-
8 phone number or electronic mail address, that
9 the Agency may use to contact the covered enti-
10 ty that made the ransom payment or an author-
11 ized agent of such covered entity, or, where ap-
12 plicable, the service provider of such covered en-
13 tity acting with the express permission of, and
14 at the direction of, that covered entity to assist
15 with compliance with the requirements of this
16 subtitle.

17 “(F) The date of the ransom payment.

18 “(G) The ransom payment demand, includ-
19 ing the type of virtual currency or other com-
20 modity requested, if applicable.

21 “(H) The ransom payment instructions,
22 including information regarding where to send
23 the payment, such as the virtual currency ad-
24 dress or physical address the funds were re-
25 quested to be sent to, if applicable.

1 “(I) The amount of the ransom payment.

2 “(6) A clear description of the types of data re-
3 quired to be preserved pursuant to subsection (a)(4),
4 the period of time for which the data is required to
5 be preserved, and allowable uses, processes, and pro-
6 cedures.

7 “(7) Deadlines and criteria for submitting sup-
8 plemental reports to the Agency required under sub-
9 section (a)(3), which shall—

10 “(A) be established by the Director in con-
11 sultation with the Council;

12 “(B) consider any existing regulatory re-
13 porting requirements similar in scope, purpose,
14 and timing to the reporting requirements to
15 which such a covered entity may also be sub-
16 ject, and make efforts to harmonize the timing
17 and contents of any such reports to the max-
18 imum extent practicable;

19 “(C) balance the need for situational
20 awareness with the ability of the covered entity
21 to conduct cyber incident response and inves-
22 tigations; and

23 “(D) provide a clear description of what
24 constitutes substantial new or different infor-
25 mation.

1 “(8) Procedures for—

2 “(A) entities, including third parties pur-
3 suant to subsection (d)(1), to submit reports re-
4 quired by paragraphs (1), (2), and (3) of sub-
5 section (a), including the manner and form
6 thereof, which shall include, at a minimum, a
7 concise, user-friendly web-based form;

8 “(B) the Agency to carry out—

9 “(i) the enforcement provisions of sec-
10 tion 2244, including with respect to the
11 issuance, service, withdrawal, referral proc-
12 ess, and enforcement of subpoenas, appeals
13 and due process procedures;

14 “(ii) other available enforcement
15 mechanisms including acquisition, suspen-
16 sion and debarment procedures; and

17 “(iii) other aspects of noncompliance;

18 “(C) implementing the exceptions provided
19 in subsection (a)(5); and

20 “(D) protecting privacy and civil liberties
21 consistent with processes adopted pursuant to
22 section 105(b) of the Cybersecurity Act of 2015
23 (6 U.S.C. 1504(b)) and anonymizing and safe-
24 guarding, or no longer retaining, information
25 received and disclosed through covered cyber in-

1 cident reports and ransom payment reports that
2 is known to be personal information of a spe-
3 cific individual or information that identifies a
4 specific individual that is not directly related to
5 a cybersecurity threat.

6 “(9) Other procedural measures directly nec-
7 essary to implement subsection (a).

8 “(d) THIRD PARTY REPORT SUBMISSION AND RAN-
9 SOM PAYMENT.—

10 “(1) REPORT SUBMISSION.—A covered entity
11 that is required to submit a covered cyber incident
12 report or a ransom payment report may use a third
13 party, such as an incident response company, insur-
14 ance provider, service provider, Information Sharing
15 and Analysis Organization, or law firm, to submit
16 the required report under subsection (a).

17 “(2) RANSOM PAYMENT.—If a covered entity
18 impacted by a ransomware attack uses a third party
19 to make a ransom payment, the third party shall not
20 be required to submit a ransom payment report for
21 itself under subsection (a)(2).

22 “(3) DUTY TO REPORT.—Third-party reporting
23 under this subparagraph does not relieve a covered
24 entity from the duty to comply with the require-

1 ments for covered cyber incident report or ransom
2 payment report submission.

3 “(4) RESPONSIBILITY TO ADVISE.—Any third
4 party used by a covered entity that knowingly makes
5 a ransom payment on behalf of a covered entity im-
6 pacted by a ransomware attack shall advise the im-
7 pacted covered entity of the responsibilities of the
8 impacted covered entity regarding reporting ransom
9 payments under this section.

10 “(e) OUTREACH TO COVERED ENTITIES.—

11 “(1) IN GENERAL.—The Agency shall conduct
12 an outreach and education campaign to inform likely
13 covered entities, entities that offer or advertise as a
14 service to customers to make or facilitate ransom
15 payments on behalf of covered entities impacted by
16 ransomware attacks and other appropriate entities
17 of the requirements of paragraphs (1), (2), and (3)
18 of subsection (a).

19 “(2) ELEMENTS.—The outreach and education
20 campaign under paragraph (1) shall include the fol-
21 lowing:

22 “(A) An overview of the final rule issued
23 pursuant to subsection (b).

24 “(B) An overview of mechanisms to submit
25 to the Agency covered cyber incident reports,

1 ransom payment reports, and information relat-
2 ing to the disclosure, retention, and use of cov-
3 ered cyber incident reports and ransom pay-
4 ment reports under this section.

5 “(C) An overview of the protections af-
6 farded to covered entities for complying with
7 the requirements under paragraphs (1), (2),
8 and (3) of subsection (a).

9 “(D) An overview of the steps taken under
10 section 2244 when a covered entity is not in
11 compliance with the reporting requirements
12 under subsection (a).

13 “(E) Specific outreach to cybersecurity
14 vendors, cyber incident response providers, cy-
15 bersecurity insurance entities, and other entities
16 that may support covered entities.

17 “(F) An overview of the privacy and civil
18 liberties requirements in this subtitle.

19 “(3) COORDINATION.—In conducting the out-
20 reach and education campaign required under para-
21 graph (1), the Agency may coordinate with—

22 “(A) the Critical Infrastructure Partner-
23 ship Advisory Council established under section
24 871;

1 “(B) Information Sharing and Analysis
2 Organizations;

3 “(C) trade associations;

4 “(D) information sharing and analysis cen-
5 ters;

6 “(E) sector coordinating councils; and

7 “(F) any other entity as determined appro-
8 priate by the Director.

9 “(f) EXEMPTION.—Sections 3506(c), 3507, 3508,
10 and 3509 of title 44, United States Code, shall not apply
11 to any action to carry out this section.

12 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall affect the authorities of the Federal Government
14 to implement the requirements of Executive Order 14028
15 (86 Fed. Reg. 26633; relating to improving the nation’s
16 cybersecurity), including changes to the Federal Acquisi-
17 tion Regulations and remedies to include suspension and
18 debarment.

19 “(h) SAVINGS PROVISION.—Nothing in this section
20 shall be construed to supersede or to abrogate, modify,
21 or otherwise limit the authority that is vested in any offi-
22 cer or any agency of the United States Government to reg-
23 ulate or take action with respect to the cybersecurity of
24 an entity.

1 **“SEC. 2243. VOLUNTARY REPORTING OF OTHER CYBER IN-**
2 **CIDENTS.**

3 “(a) IN GENERAL.—Entities may voluntarily report
4 cyber incidents or ransom payments to the Agency that
5 are not required under paragraph (1), (2), or (3) of sec-
6 tion 2242(a), but may enhance the situational awareness
7 of cyber threats.

8 “(b) VOLUNTARY PROVISION OF ADDITIONAL INFOR-
9 MATION IN REQUIRED REPORTS.—Covered entities may
10 voluntarily include in reports required under paragraph
11 (1), (2), or (3) of section 2242(a) information that is not
12 required to be included, but may enhance the situational
13 awareness of cyber threats.

14 “(c) APPLICATION OF PROTECTIONS.—The protec-
15 tions under section 2245 applicable to reports made under
16 section 2242 shall apply in the same manner and to the
17 same extent to reports and information submitted under
18 subsections (a) and (b).

19 **“SEC. 2244. NONCOMPLIANCE WITH REQUIRED REPORTING.**

20 “(a) PURPOSE.—In the event that a covered entity
21 that is required to submit a report under section 2242(a)
22 fails to comply with the requirement to report, the Direc-
23 tor may obtain information about the cyber incident or
24 ransom payment by engaging the covered entity directly
25 to request information about the cyber incident or ransom
26 payment, and if the Director is unable to obtain informa-

1 tion through such engagement, by issuing a subpoena to
2 the covered entity, pursuant to subsection (c), to gather
3 information sufficient to determine whether a covered
4 cyber incident or ransom payment has occurred.

5 “(b) INITIAL REQUEST FOR INFORMATION.—

6 “(1) IN GENERAL.—If the Director has reason
7 to believe, whether through public reporting or other
8 information in the possession of the Federal Govern-
9 ment, including through analysis performed pursu-
10 ant to paragraph (1) or (2) of section 2241(a), that
11 a covered entity has experienced a covered cyber in-
12 cident or made a ransom payment but failed to re-
13 port such cyber incident or payment to the Agency
14 in accordance with section 2242(a), the Director
15 may request additional information from the covered
16 entity to confirm whether or not a covered cyber in-
17 cident or ransom payment has occurred.

18 “(2) TREATMENT.—Information provided to the
19 Agency in response to a request under paragraph
20 (1) shall be treated as if it was submitted through
21 the reporting procedures established in section 2242.

22 “(c) ENFORCEMENT.—

23 “(1) IN GENERAL.—If, after the date that is 72
24 hours from the date on which the Director made the
25 request for information in subsection (b), the Direc-

1 tor has received no response from the covered entity
2 from which such information was requested, or re-
3 ceived an inadequate response, the Director may
4 issue to such covered entity a subpoena to compel
5 disclosure of information the Director deems nec-
6 essary to determine whether a covered cyber incident
7 or ransom payment has occurred and obtain the in-
8 formation required to be reported pursuant to sec-
9 tion 2242 and any implementing regulations, and as-
10 sess potential impacts to national security, economic
11 security, or public health and safety.

12 “(2) CIVIL ACTION.—

13 “(A) IN GENERAL.—If a covered entity
14 fails to comply with a subpoena, the Director
15 may refer the matter to the Attorney General
16 to bring a civil action in a district court of the
17 United States to enforce such subpoena.

18 “(B) VENUE.—An action under this para-
19 graph may be brought in the judicial district in
20 which the covered entity against which the ac-
21 tion is brought resides, is found, or does busi-
22 ness.

23 “(C) CONTEMPT OF COURT.—A court may
24 punish a failure to comply with a subpoena

1 issued under this subsection as contempt of
2 court.

3 “(3) NON-DELEGATION.—The authority of the
4 Director to issue a subpoena under this subsection
5 may not be delegated.

6 “(4) AUTHENTICATION.—

7 “(A) IN GENERAL.—Any subpoena issued
8 electronically pursuant to this subsection shall
9 be authenticated with a cryptographic digital
10 signature of an authorized representative of the
11 Agency, or other comparable successor tech-
12 nology, that allows the Agency to demonstrate
13 that such subpoena was issued by the Agency
14 and has not been altered or modified since such
15 issuance.

16 “(B) INVALID IF NOT AUTHENTICATED.—
17 Any subpoena issued electronically pursuant to
18 this subsection that is not authenticated in ac-
19 cordance with subparagraph (A) shall not be
20 considered to be valid by the recipient of such
21 subpoena.

22 “(d) PROVISION OF CERTAIN INFORMATION TO AT-
23 TORNEY GENERAL.—

24 “(1) IN GENERAL.—Notwithstanding section
25 2245(a)(5) and paragraph (b)(2) of this section, if

1 the Director determines, based on the information
2 provided in response to a subpoena issued pursuant
3 to subsection (c), that the facts relating to the cyber
4 incident or ransom payment at issue may constitute
5 grounds for a regulatory enforcement action or
6 criminal prosecution, the Director may provide such
7 information to the Attorney General or the head of
8 the appropriate Federal regulatory agency, who may
9 use such information for a regulatory enforcement
10 action or criminal prosecution.

11 “(2) CONSULTATION.—The Director may con-
12 sult with the Attorney General or the head of the
13 appropriate Federal regulatory agency when making
14 the determination under paragraph (1).

15 “(e) CONSIDERATIONS.—When determining whether
16 to exercise the authorities provided under this section, the
17 Director shall take into consideration—

18 “(1) the complexity in determining if a covered
19 cyber incident has occurred; and

20 “(2) prior interaction with the Agency or
21 awareness of the covered entity of the policies and
22 procedures of the Agency for reporting covered cyber
23 incidents and ransom payments.

24 “(f) EXCLUSIONS.—This section shall not apply to a
25 State, local, Tribal, or territorial government entity.

1 “(g) REPORT TO CONGRESS.—The Director shall
2 submit to Congress an annual report on the number of
3 times the Director—

4 “(1) issued an initial request for information
5 pursuant to subsection (b);

6 “(2) issued a subpoena pursuant to subsection
7 (c); or

8 “(3) referred a matter to the Attorney General
9 for a civil action pursuant to subsection (c)(2).

10 “(h) PUBLICATION OF THE ANNUAL REPORT.—The
11 Director shall publish a version of the annual report re-
12 quired under subsection (g) on the website of the Agency,
13 which shall include, at a minimum, the number of times
14 the Director—

15 “(1) issued an initial request for information
16 pursuant to subsection (b); or

17 “(2) issued a subpoena pursuant to subsection
18 (c).

19 “(i) ANONYMIZATION OF REPORTS.—The Director
20 shall ensure any victim information contained in a report
21 required to be published under subsection (h) be
22 anonymized before the report is published.

23 **“SEC. 2245. INFORMATION SHARED WITH OR PROVIDED TO**
24 **THE FEDERAL GOVERNMENT.**

25 “(a) DISCLOSURE, RETENTION, AND USE.—

1 “(1) AUTHORIZED ACTIVITIES.—Information
2 provided to the Agency pursuant to section 2242 or
3 2243 may be disclosed to, retained by, and used by,
4 consistent with otherwise applicable provisions of
5 Federal law, any Federal agency or department,
6 component, officer, employee, or agent of the Fed-
7 eral Government solely for—

8 “(A) a cybersecurity purpose;

9 “(B) the purpose of identifying—

10 “(i) a cyber threat, including the
11 source of the cyber threat; or

12 “(ii) a security vulnerability;

13 “(C) the purpose of responding to, or oth-
14 erwise preventing or mitigating, a specific
15 threat of death, a specific threat of serious bod-
16 ily harm, or a specific threat of serious eco-
17 nomic harm, including a terrorist act or use of
18 a weapon of mass destruction;

19 “(D) the purpose of responding to, inves-
20 tigating, prosecuting, or otherwise preventing or
21 mitigating, a serious threat to a minor, includ-
22 ing sexual exploitation and threats to physical
23 safety; or

24 “(E) the purpose of preventing, inves-
25 tigating, disrupting, or prosecuting an offense

1 arising out of a cyber incident reported pursu-
2 ant to section 2242 or 2243 or any of the of-
3 fenses listed in section 105(d)(5)(A)(v) of the
4 Cybersecurity Act of 2015 (6 U.S.C.
5 1504(d)(5)(A)(v)).

6 “(2) AGENCY ACTIONS AFTER RECEIPT.—

7 “(A) RAPID, CONFIDENTIAL SHARING OF
8 CYBER THREAT INDICATORS.—Upon receiving a
9 covered cyber incident or ransom payment re-
10 port submitted pursuant to this section, the
11 Agency shall immediately review the report to
12 determine whether the cyber incident that is the
13 subject of the report is connected to an ongoing
14 cyber threat or security vulnerability and where
15 applicable, use such report to identify, develop,
16 and rapidly disseminate to appropriate stake-
17 holders actionable, anonymized cyber threat in-
18 dicators and defensive measures.

19 “(B) PRINCIPLES FOR SHARING SECURITY
20 VULNERABILITIES.—With respect to informa-
21 tion in a covered cyber incident or ransom pay-
22 ment report regarding a security vulnerability
23 referred to in paragraph (1)(B)(ii), the Director
24 shall develop principles that govern the timing
25 and manner in which information relating to se-

1 curity vulnerabilities may be shared, consistent
2 with common industry best practices and
3 United States and international standards.

4 “(3) PRIVACY AND CIVIL LIBERTIES.—Informa-
5 tion contained in covered cyber incident and ransom
6 payment reports submitted to the Agency pursuant
7 to section 2242 shall be retained, used, and dissemi-
8 nated, where permissible and appropriate, by the
9 Federal Government in accordance with processes to
10 be developed for the protection of personal informa-
11 tion consistent with processes adopted pursuant to
12 section 105 of the Cybersecurity Act of 2015 (6
13 U.S.C. 1504) and in a manner that protects from
14 unauthorized use or disclosure any information that
15 may contain—

16 “(A) personal information of a specific in-
17 dividual that is not directly related to a cyberse-
18 curity threat; or

19 “(B) information that identifies a specific
20 individual that is not directly related to a cyber-
21 security threat.

22 “(4) DIGITAL SECURITY.—The Agency shall en-
23 sure that reports submitted to the Agency pursuant
24 to section 2242, and any information contained in
25 those reports, are collected, stored, and protected at

1 a minimum in accordance with the requirements for
2 moderate impact Federal information systems, as
3 described in Federal Information Processing Stand-
4 ards Publication 199, or any successor document.

5 “(5) PROHIBITION ON USE OF INFORMATION IN
6 REGULATORY ACTIONS.—

7 “(A) IN GENERAL.—A Federal, State,
8 local, or Tribal government shall not use infor-
9 mation about a covered cyber incident or ran-
10 som payment obtained solely through reporting
11 directly to the Agency in accordance with this
12 subtitle to regulate, including through an en-
13 forcement action, the activities of the covered
14 entity or entity that made a ransom payment,
15 unless the government entity expressly allows
16 entities to submit reports to the Agency to meet
17 regulatory reporting obligations of the entity.

18 “(B) CLARIFICATION.—A report submitted
19 to the Agency pursuant to section 2242 or 2243
20 may, consistent with Federal or State regu-
21 latory authority specifically relating to the pre-
22 vention and mitigation of cybersecurity threats
23 to information systems, inform the development
24 or implementation of regulations relating to
25 such systems.

1 “(b) PROTECTIONS FOR REPORTING ENTITIES AND
2 INFORMATION.—Reports describing covered cyber inci-
3 dents or ransom payments submitted to the Agency by en-
4 tities in accordance with section 2242, as well as volun-
5 tarily-submitted cyber incident reports submitted to the
6 Agency pursuant to section 2243, shall—

7 “(1) be considered the commercial, financial,
8 and proprietary information of the covered entity
9 when so designated by the covered entity;

10 “(2) be exempt from disclosure under section
11 552(b)(3) of title 5, United States Code (commonly
12 known as the ‘Freedom of Information Act’), as well
13 as any provision of State, Tribal, or local freedom of
14 information law, open government law, open meet-
15 ings law, open records law, sunshine law, or similar
16 law requiring disclosure of information or records;

17 “(3) be considered not to constitute a waiver of
18 any applicable privilege or protection provided by
19 law, including trade secret protection; and

20 “(4) not be subject to a rule of any Federal
21 agency or department or any judicial doctrine re-
22 garding ex parte communications with a decision-
23 making official.

24 “(c) LIABILITY PROTECTIONS.—

1 “(1) IN GENERAL.—No cause of action shall lie
2 or be maintained in any court by any person or enti-
3 ty and any such action shall be promptly dismissed
4 for the submission of a report pursuant to section
5 2242(a) that is submitted in conformance with this
6 subtitle and the rule promulgated under section
7 2242(b), except that this subsection shall not apply
8 with regard to an action by the Federal Government
9 pursuant to section 2244(c)(2).

10 “(2) SCOPE.—The liability protections provided
11 in this subsection shall only apply to or affect litiga-
12 tion that is solely based on the submission of a cov-
13 ered cyber incident report or ransom payment report
14 to the Agency.

15 “(3) RESTRICTIONS.—Notwithstanding para-
16 graph (2), no report submitted to the Agency pursu-
17 ant to this subtitle or any communication, document,
18 material, or other record, created for the sole pur-
19 pose of preparing, drafting, or submitting such re-
20 port, may be received in evidence, subject to dis-
21 covery, or otherwise used in any trial, hearing, or
22 other proceeding in or before any court, regulatory
23 body, or other authority of the United States, a
24 State, or a political subdivision thereof, provided
25 that nothing in this subtitle shall create a defense to

1 discovery or otherwise affect the discovery of any
2 communication, document, material, or other record
3 not created for the sole purpose of preparing, draft-
4 ing, or submitting such report.

5 “(d) SHARING WITH NON-FEDERAL ENTITIES.—
6 The Agency shall anonymize the victim who reported the
7 information when making information provided in reports
8 received under section 2242 available to critical infrastruc-
9 ture owners and operators and the general public.

10 “(e) STORED COMMUNICATIONS ACT.—Nothing in
11 this subtitle shall be construed to permit or require disclo-
12 sure by a provider of a remote computing service or a pro-
13 vider of an electronic communication service to the public
14 of information not otherwise permitted or required to be
15 disclosed under chapter 121 of title 18, United States
16 Code (commonly known as the ‘Stored Communications
17 Act’).

18 **“SEC. 2246. CYBER INCIDENT REPORTING COUNCIL.**

19 “(a) RESPONSIBILITY OF THE SECRETARY.—The
20 Secretary shall lead an intergovernmental Cyber Incident
21 Reporting Council, in consultation with the Director of the
22 Office of Management and Budget, the Attorney General,
23 the National Director Cyber Director, Sector Risk Man-
24 agement Agencies, and other appropriate Federal agen-
25 cies, to coordinate, deconflict, and harmonize Federal inci-

1 dent reporting requirements, including those issued
2 through regulations.

3 “(b) **RULE OF CONSTRUCTION.**—Nothing in sub-
4 section (a) shall be construed to provide any additional
5 regulatory authority to any Federal entity.”.

6 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
7 The table of contents in section 1(b) of the Homeland Se-
8 curity Act of 2002 (Public Law 107–296; 116 Stat. 2135)
9 is amended by inserting after the items relating to subtitle
10 C of title XXII the following:

“Subtitle D—Cyber Incident Reporting

“Sec. 2240. Definitions.

“Sec. 2241. Cyber Incident Review.

“Sec. 2242. Required reporting of certain cyber incidents.

“Sec. 2243. Voluntary reporting of other cyber incidents.

“Sec. 2244. Noncompliance with required reporting.

“Sec. 2245. Information shared with or provided to the Federal Government.

“Sec. 2246. Cyber Incident Reporting Council.”.

11 **SEC. 204. FEDERAL SHARING OF INCIDENT REPORTS.**

12 (a) **CYBER INCIDENT REPORTING SHARING.**—

13 (1) **IN GENERAL.**—Notwithstanding any other
14 provision of law or regulation, any Federal agency,
15 including any independent establishment (as defined
16 in section 104 of title 5, United States Code), that
17 receives a report from an entity of a cyber incident,
18 including a ransomware attack, shall provide the re-
19 port to the Agency as soon as possible, but not later
20 than 24 hours after receiving the report, unless a
21 shorter period is required by an agreement made be-

1 tween the Department of Homeland Security (in-
2 cluding the Cybersecurity and Infrastructure Secu-
3 rity Agency) and the recipient Federal agency. The
4 Director shall share and coordinate each report pur-
5 suant to section 2241(b) of the Homeland Security
6 Act of 2002, as added by section 203 of this title.

7 (2) RULE OF CONSTRUCTION.—The require-
8 ments described in paragraph (1) and section
9 2245(d) of the Homeland Security Act of 2002, as
10 added by section 203 of this title, may not be con-
11 strued to be a violation of any provision of law or
12 policy that would otherwise prohibit disclosure or
13 provision of information within the executive branch.

14 (3) PROTECTION OF INFORMATION.—The Di-
15 rector shall comply with any obligations of the re-
16 cipient Federal agency described in paragraph (1) to
17 protect information, including with respect to pri-
18 vacy, confidentiality, or information security, if those
19 obligations would impose greater protection require-
20 ments than this Act or the amendments made by
21 this Act.

22 (4) EFFECTIVE DATE.—This subsection shall
23 take effect on the effective date of the final rule
24 issued pursuant to section 2242(b) of the Homeland

1 Security Act of 2002, as added by section 203 of
2 this title.

3 (5) AGENCY AGREEMENTS.—

4 (A) IN GENERAL.—The Agency and any
5 Federal agency, including any independent es-
6 tablishment (as defined in section 104 of title
7 5, United States Code) that receives incident
8 reports from entities, including due to
9 ransomware attacks, shall, as appropriate, enter
10 into a documented agreement to establish poli-
11 cies, processes, procedures, and mechanisms to
12 ensure reports are shared with the Agency pur-
13 suant to paragraph (1).

14 (B) AVAILABILITY.—To the maximum ex-
15 tent practicable, each documented agreement
16 required under subparagraph (A) shall be made
17 publicly available.

18 (C) REQUIREMENT.—The documented
19 agreements required by subparagraph (A) shall
20 require reports be shared from Federal agencies
21 with the Agency in such time as to meet the
22 overall timeline for covered entity reporting of
23 covered cyber incidents and ransom payments
24 established in section 2242 of the Homeland

1 Security Act of 2002, as added by section 203
2 of this title.

3 (b) HARMONIZING REPORTING REQUIREMENTS.—

4 The Secretary of Homeland Security, acting through the
5 Director, shall, in consultation with the Cyber Incident
6 Reporting Council described in section 2246 of the Home-
7 land Security Act of 2002, as added by section 203 of
8 this title, to the maximum extent practicable—

9 (1) periodically review existing regulatory re-
10 quirements, including the information required in
11 such reports, to report incidents and ensure that any
12 such reporting requirements and procedures avoid
13 conflicting, duplicative, or burdensome requirements;
14 and

15 (2) coordinate with appropriate Federal part-
16 ners and regulatory authorities that receive reports
17 relating to incidents to identify opportunities to
18 streamline reporting processes, and where feasible,
19 facilitate interagency agreements between such au-
20 thorities to permit the sharing of such reports, con-
21 sistent with applicable law and policy, without im-
22 pacting the ability of the Agency to gain timely situ-
23 ational awareness of a covered cyber incident or ran-
24 som payment.

1 **SEC. 205. RANSOMWARE VULNERABILITY WARNING PILOT**
2 **PROGRAM.**

3 (a) PROGRAM.—Not later than 1 year after the date
4 of enactment of this Act, the Director shall establish a
5 ransomware vulnerability warning pilot program to lever-
6 age existing authorities and technology to specifically de-
7 velop processes and procedures for, and to dedicate re-
8 sources to, identifying information systems that contain
9 security vulnerabilities associated with common
10 ransomware attacks, and to notify the owners of those vul-
11 nerable systems of their security vulnerability.

12 (b) IDENTIFICATION OF VULNERABLE SYSTEMS.—
13 The pilot program established under subsection (a) shall—

14 (1) identify the most common security
15 vulnerabilities utilized in ransomware attacks and
16 mitigation techniques; and

17 (2) utilize existing authorities to identify infor-
18 mation systems that contain the security
19 vulnerabilities identified in paragraph (1).

20 (c) ENTITY NOTIFICATION.—

21 (1) IDENTIFICATION.—If the Director is able to
22 identify the entity at risk that owns or operates a
23 vulnerable information system identified in sub-
24 section (b), the Director may notify the owner of the
25 information system.

1 (2) NO IDENTIFICATION.—If the Director is not
2 able to identify the entity at risk that owns or oper-
3 ates a vulnerable information system identified in
4 subsection (b), the Director may utilize the subpoena
5 authority pursuant to section 2209 of the Homeland
6 Security Act of 2002 (6 U.S.C. 659) to identify and
7 notify the entity at risk pursuant to the procedures
8 under that section.

9 (3) REQUIRED INFORMATION.—A notification
10 made under paragraph (1) shall include information
11 on the identified security vulnerability and mitiga-
12 tion techniques.

13 (d) PRIORITIZATION OF NOTIFICATIONS.—To the ex-
14 tent practicable, the Director shall prioritize covered enti-
15 ties for identification and notification activities under the
16 pilot program established under this section.

17 (e) LIMITATION ON PROCEDURES.—No procedure,
18 notification, or other authorities utilized in the execution
19 of the pilot program established under subsection (a) shall
20 require an owner or operator of a vulnerable information
21 system to take any action as a result of a notice of a secu-
22 rity vulnerability made pursuant to subsection (c).

23 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed to provide additional authorities

1 to the Director to identify vulnerabilities or vulnerable sys-
2 tems.

3 (g) TERMINATION.—The pilot program established
4 under subsection (a) shall terminate on the date that is
5 4 years after the date of enactment of this Act.

6 **SEC. 206. RANSOMWARE THREAT MITIGATION ACTIVITIES.**

7 (a) JOINT RANSOMWARE TASK FORCE.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of enactment of this Act, the Director,
10 in consultation with the National Cyber Director,
11 the Attorney General, and the Director of the Fed-
12 eral Bureau of Investigation, shall establish and
13 chair the Joint Ransomware Task Force to coordi-
14 nate an ongoing nationwide campaign against
15 ransomware attacks, and identify and pursue oppor-
16 tunities for international cooperation.

17 (2) COMPOSITION.—The Joint Ransomware
18 Task Force shall consist of participants from Fed-
19 eral agencies, as determined appropriate by the Na-
20 tional Cyber Director in consultation with the Sec-
21 retary of Homeland Security.

22 (3) RESPONSIBILITIES.—The Joint
23 Ransomware Task Force, utilizing only existing au-
24 thorities of each participating Federal agency, shall

1 coordinate across the Federal Government the fol-
2 lowing activities:

3 (A) Prioritization of intelligence-driven op-
4 erations to disrupt specific ransomware actors.

5 (B) Consult with relevant private sector,
6 State, local, Tribal, and territorial governments
7 and international stakeholders to identify needs
8 and establish mechanisms for providing input
9 into the Joint Ransomware Task Force.

10 (C) Identifying, in consultation with rel-
11 evant entities, a list of highest threat
12 ransomware entities updated on an ongoing
13 basis, in order to facilitate—

14 (i) prioritization for Federal action by
15 appropriate Federal agencies; and

16 (ii) identify metrics for success of said
17 actions.

18 (D) Disrupting ransomware criminal ac-
19 tors, associated infrastructure, and their fi-
20 nances.

21 (E) Facilitating coordination and collabo-
22 ration between Federal entities and relevant en-
23 tities, including the private sector, to improve
24 Federal actions against ransomware threats.

1 (F) Collection, sharing, and analysis of
2 ransomware trends to inform Federal actions.

3 (G) Creation of after-action reports and
4 other lessons learned from Federal actions that
5 identify successes and failures to improve sub-
6 sequent actions.

7 (H) Any other activities determined appro-
8 priate by the Joint Ransomware Task Force to
9 mitigate the threat of ransomware attacks.

10 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to provide any additional authority
12 to any Federal agency.

13 **SEC. 207. CONGRESSIONAL REPORTING.**

14 (a) REPORT ON STAKEHOLDER ENGAGEMENT.—Not
15 later than 30 days after the date on which the Director
16 issues the final rule under section 2242(b) of the Home-
17 land Security Act of 2002, as added by section 203(b) of
18 this title, the Director shall submit to the Committee on
19 Homeland Security and Governmental Affairs of the Sen-
20 ate and the Committee on Homeland Security of the
21 House of Representatives a report that describes how the
22 Director engaged stakeholders in the development of the
23 final rule.

24 (b) REPORT ON OPPORTUNITIES TO STRENGTHEN
25 SECURITY RESEARCH.—Not later than 1 year after the

1 date of enactment of this Act, the Director shall submit
2 to the Committee on Homeland Security and Govern-
3 mental Affairs of the Senate and the Committee on Home-
4 land Security of the House of Representatives a report de-
5 scribing how the National Cybersecurity and Communica-
6 tions Integration Center established under section 2209
7 of the Homeland Security Act of 2002 (6 U.S.C. 659) has
8 carried out activities under section 2241(a)(9) of the
9 Homeland Security Act of 2002, as added by section
10 203(a) of this title, by proactively identifying opportunities
11 to use cyber incident data to inform and enable cybersecu-
12 rity research within the academic and private sector.

13 (c) REPORT ON RANSOMWARE VULNERABILITY
14 WARNING PILOT PROGRAM.—Not later than 1 year after
15 the date of enactment of this Act, and annually thereafter
16 for the duration of the pilot program established under
17 section 205, the Director shall submit to the Committee
18 on Homeland Security and Governmental Affairs of the
19 Senate and the Committee on Homeland Security of the
20 House of Representatives a report, which may include a
21 classified annex, on the effectiveness of the pilot program,
22 which shall include a discussion of the following:

23 (1) The effectiveness of the notifications under
24 section 205(c) in mitigating security vulnerabilities
25 and the threat of ransomware.

1 (2) Identification of the most common
2 vulnerabilities utilized in ransomware.

3 (3) The number of notifications issued during
4 the preceding year.

5 (4) To the extent practicable, the number of
6 vulnerable devices or systems mitigated under the
7 pilot program by the Agency during the preceding
8 year.

9 (d) REPORT ON HARMONIZATION OF REPORTING
10 REGULATIONS.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date on which the Secretary of Homeland
13 Security convenes the Cyber Incident Reporting
14 Council described in section 2246 of the Homeland
15 Security Act of 2002, as added by section 203 of
16 this title, the Secretary of Homeland Security shall
17 submit to the appropriate congressional committees
18 a report that includes—

19 (A) a list of duplicative Federal cyber inci-
20 dent reporting requirements on covered entities;

21 (B) a description of any challenges in har-
22 monizing the duplicative reporting require-
23 ments;

1 (C) any actions the Director intends to
2 take to facilitate harmonizing the duplicative
3 reporting requirements; and

4 (D) any proposed legislative changes nec-
5 essary to address the duplicative reporting.

6 (2) RULE OF CONSTRUCTION.—Nothing in
7 paragraph (1) shall be construed to provide any ad-
8 ditional regulatory authority to any Federal agency.

9 (e) GAO REPORTS.—

10 (1) IMPLEMENTATION OF THIS ACT.—Not later
11 than 2 years after the date of enactment of this Act,
12 the Comptroller General of the United States shall
13 submit to the Committee on Homeland Security and
14 Governmental Affairs of the Senate and the Com-
15 mittee on Homeland Security of the House of Rep-
16 resentatives a report on the implementation of this
17 Act and the amendments made by this Act.

18 (2) EXEMPTIONS TO REPORTING.—Not later
19 than 1 year after the date on which the Director
20 issues the final rule required under section 2242(b)
21 of the Homeland Security Act of 2002, as added by
22 section 203 of this title, the Comptroller General of
23 the United States shall submit to the Committee on
24 Homeland Security and Governmental Affairs of the
25 Senate and the Committee on Homeland Security of

1 the House of Representatives a report on the exemp-
2 tions to reporting under paragraphs (2) and (5) of
3 section 2242(a) of the Homeland Security Act of
4 2002, as added by section 203 of this title, which
5 shall include—

6 (A) to the extent practicable, an evaluation
7 of the quantity of cyber incidents not reported
8 to the Federal Government;

9 (B) an evaluation of the impact on im-
10 pacted entities, homeland security, and the na-
11 tional economy due to cyber incidents,
12 ransomware attacks, and ransom payments, in-
13 cluding a discussion on the scope of impact of
14 cyber incidents that were not reported to the
15 Federal Government;

16 (C) an evaluation of the burden, financial
17 and otherwise, on entities required to report
18 cyber incidents under this Act, including an
19 analysis of entities that meet the definition of
20 a small business concern under section 3 of the
21 Small Business Act (15 U.S.C. 632); and

22 (D) a description of the consequences and
23 effects of limiting covered cyber incident and
24 ransom payment reporting to only covered enti-
25 ties.

1 (f) REPORT ON EFFECTIVENESS OF ENFORCEMENT
2 MECHANISMS.—Not later than 1 year after the date on
3 which the Director issues the final rule required under sec-
4 tion 2242(b) of the Homeland Security Act of 2002, as
5 added by section 203 of this title, the Director shall sub-
6 mit to the Committee on Homeland Security and Govern-
7 mental Affairs of the Senate and the Committee on Home-
8 land Security of the House of Representatives a report on
9 the effectiveness of the enforcement mechanisms within
10 section 2244 of the Homeland Security Act of 2002, as
11 added by section 203 of this title.

12 **TITLE III—FEDERAL SECURE**
13 **CLOUD IMPROVEMENT AND**
14 **JOBS ACT OF 2022**

15 **SEC. 301. SHORT TITLE.**

16 This title may be cited as the “Federal Secure Cloud
17 Improvement and Jobs Act of 2022”.

18 **SEC. 302. FINDINGS.**

19 Congress finds the following:

20 (1) Ensuring that the Federal Government can
21 securely leverage cloud computing products and serv-
22 ices is key to expediting the modernization of legacy
23 information technology systems, increasing cyberse-
24 curity within and across departments and agencies,
25 and supporting the continued leadership of the

1 United States in technology innovation and job cre-
2 ation.

3 (2) According to independent analysis, as of
4 calendar year 2019, the size of the cloud computing
5 market had tripled since 2004, enabling more than
6 2,000,000 jobs and adding more than
7 \$200,000,000,000 to the gross domestic product of
8 the United States.

9 (3) The Federal Government, across multiple
10 presidential administrations and Congresses, has
11 continued to support the ability of agencies to move
12 to the cloud, including through—

13 (A) President Barack Obama’s “Cloud
14 First Strategy”;

15 (B) President Donald Trump’s “Cloud
16 Smart Strategy”;

17 (C) the prioritization of cloud security in
18 Executive Order 14028 (86 Fed. Reg. 26633;
19 relating to improving the nation’s cybersecu-
20 rity), which was issued by President Joe Biden;
21 and

22 (D) more than a decade of appropriations
23 and authorization legislation that provides
24 agencies with relevant authorities and appro-
25 priations to modernize on-premises information

1 technology systems and more readily adopt
2 cloud computing products and services.

3 (4) Since it was created in 2011, the Federal
4 Risk and Authorization Management Program (re-
5 ferred to in this section as “FedRAMP”) at the
6 General Services Administration has made steady
7 and sustained improvements in supporting the se-
8 cure authorization and reuse of cloud computing
9 products and services within the Federal Govern-
10 ment, including by reducing the costs and burdens
11 on both agencies and cloud companies to quickly and
12 securely enter the Federal market.

13 (5) According to data from the General Services
14 Administration, as of the end of fiscal year 2021,
15 there were 239 cloud providers with FedRAMP au-
16 thorizations, and those authorizations had been re-
17 used more than 2,700 times across various agencies.

18 (6) Providing a legislative framework for
19 FedRAMP and new authorities to the General Serv-
20 ices Administration, the Office of Management and
21 Budget, and Federal agencies will—

22 (A) improve the speed at which new cloud
23 computing products and services can be se-
24 curely authorized;

1 (B) enhance the ability of agencies to ef-
2 fectively evaluate FedRAMP authorized pro-
3 viders for reuse;

4 (C) reduce the costs and burdens to cloud
5 providers seeking a FedRAMP authorization;
6 and

7 (D) provide for more robust transparency
8 and dialogue between industry and the Federal
9 Government to drive stronger adoption of se-
10 cure cloud capabilities, create jobs, and reduce
11 wasteful legacy information technology.

12 **SEC. 303. TITLE 44 AMENDMENTS.**

13 (a) AMENDMENT.—Chapter 36 of title 44, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 3607. Definitions**

17 “(a) IN GENERAL.—Except as provided under sub-
18 section (b), the definitions under sections 3502 and 3552
19 apply to this section through section 3616.

20 “(b) ADDITIONAL DEFINITIONS.—In this section
21 through section 3616:

22 “(1) ADMINISTRATOR.—The term ‘Adminis-
23 trator’ means the Administrator of General Services.

24 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term ‘appropriate congressional com-

1 mittees’ means the Committee on Homeland Secu-
2 rity and Governmental Affairs of the Senate and the
3 Committee on Oversight and Reform of the House
4 of Representatives.

5 “(3) AUTHORIZATION TO OPERATE; FEDERAL
6 INFORMATION.—The terms ‘authorization to oper-
7 ate’ and ‘Federal information’ have the meaning
8 given those term in Circular A–130 of the Office of
9 Management and Budget entitled ‘Managing Infor-
10 mation as a Strategic Resource’, or any successor
11 document.

12 “(4) CLOUD COMPUTING.—The term ‘cloud
13 computing’ has the meaning given the term in Spe-
14 cial Publication 800–145 of the National Institute of
15 Standards and Technology, or any successor docu-
16 ment.

17 “(5) CLOUD SERVICE PROVIDER.—The term
18 ‘cloud service provider’ means an entity offering
19 cloud computing products or services to agencies.

20 “(6) FEDRAMP.—The term ‘FedRAMP’
21 means the Federal Risk and Authorization Manage-
22 ment Program established under section 3608.

23 “(7) FEDRAMP AUTHORIZATION.—The term
24 ‘FedRAMP authorization’ means a certification that
25 a cloud computing product or service has—

1 “(A) completed a FedRAMP authorization
2 process, as determined by the Administrator; or

3 “(B) received a FedRAMP provisional au-
4 thorization to operate, as determined by the
5 FedRAMP Board.

6 “(8) FEDRAMP AUTHORIZATION PACKAGE.—
7 The term ‘FedRAMP authorization package’ means
8 the essential information that can be used by an
9 agency to determine whether to authorize the oper-
10 ation of an information system or the use of a des-
11 ignated set of common controls for all cloud com-
12 puting products and services authorized by
13 FedRAMP.

14 “(9) FEDRAMP BOARD.—The term ‘FedRAMP
15 Board’ means the board established under section
16 3610.

17 “(10) INDEPENDENT ASSESSMENT SERVICE.—
18 The term ‘independent assessment service’ means a
19 third-party organization accredited by the Adminis-
20 trator to undertake conformity assessments of cloud
21 service providers and the products or services of
22 cloud service providers.

23 “(11) SECRETARY.—The term ‘Secretary’
24 means the Secretary of Homeland Security.

1 **“§ 3608. Federal Risk and Authorization Management**
2 **Program**

3 “There is established within the General Services Ad-
4 ministration the Federal Risk and Authorization Manage-
5 ment Program. The Administrator, subject to section
6 3614, shall establish a Government-wide program that
7 provides a standardized, reusable approach to security as-
8 sessment and authorization for cloud computing products
9 and services that process unclassified information used by
10 agencies.

11 **“§ 3609. Roles and responsibilities of the General**
12 **Services Administration**

13 “(a) ROLES AND RESPONSIBILITIES.—The Adminis-
14 trator shall—

15 “(1) in consultation with the Secretary, develop,
16 coordinate, and implement a process to support
17 agency review, reuse, and standardization, where ap-
18 propriate, of security assessments of cloud com-
19 puting products and services, including, as appro-
20 priate, oversight of continuous monitoring of cloud
21 computing products and services, pursuant to guid-
22 ance issued by the Director pursuant to section
23 3614;

24 “(2) establish processes and identify criteria
25 consistent with guidance issued by the Director
26 under section 3614 to make a cloud computing prod-

1 uct or service eligible for a FedRAMP authorization
2 and validate whether a cloud computing product or
3 service has a FedRAMP authorization;

4 “(3) develop and publish templates, best prac-
5 tices, technical assistance, and other materials to
6 support the authorization of cloud computing prod-
7 ucts and services and increase the speed, effective-
8 ness, and transparency of the authorization process,
9 consistent with standards and guidelines established
10 by the Director of the National Institute of Stand-
11 ards and Technology and relevant statutes;

12 “(4) establish and update guidance on the
13 boundaries of FedRAMP authorization packages to
14 enhance the security and protection of Federal infor-
15 mation and promote transparency for agencies and
16 users as to which services are included in the scope
17 of a FedRAMP authorization;

18 “(5) grant FedRAMP authorizations to cloud
19 computing products and services consistent with the
20 guidance and direction of the FedRAMP Board;

21 “(6) establish and maintain a public comment
22 process for proposed guidance and other FedRAMP
23 directives that may have a direct impact on cloud
24 service providers and agencies before the issuance of
25 such guidance or other FedRAMP directives;

1 “(7) coordinate with the FedRAMP Board, the
2 Director of the Cybersecurity and Infrastructure Se-
3 curity Agency, and other entities identified by the
4 Administrator, with the concurrence of the Director
5 and the Secretary, to establish and regularly update
6 a framework for continuous monitoring under sec-
7 tion 3553;

8 “(8) provide a secure mechanism for storing
9 and sharing necessary data, including FedRAMP
10 authorization packages, to enable better reuse of
11 such packages across agencies, including making
12 available any information and data necessary for
13 agencies to fulfill the requirements of section 3613;

14 “(9) provide regular updates to applicant cloud
15 service providers on the status of any cloud com-
16 puting product or service during an assessment
17 process;

18 “(10) regularly review, in consultation with the
19 FedRAMP Board—

20 “(A) the costs associated with the inde-
21 pendent assessment services described in section
22 3611; and

23 “(B) the information relating to foreign in-
24 terests submitted pursuant to section 3612;

1 “(11) in coordination with the Director of the
2 National Institute of Standards and Technology, the
3 Director, the Secretary, and other stakeholders, as
4 appropriate, determine the sufficiency of underlying
5 standards and requirements to identify and assess
6 the provenance of the software in cloud services and
7 products;

8 “(12) support the Federal Secure Cloud Advi-
9 sory Committee established pursuant to section
10 3616; and

11 “(13) take such other actions as the Adminis-
12 trator may determine necessary to carry out
13 FedRAMP.

14 “(b) WEBSITE.—

15 “(1) IN GENERAL.—The Administrator shall
16 maintain a public website to serve as the authori-
17 tative repository for FedRAMP, including the timely
18 publication and updates for all relevant information,
19 guidance, determinations, and other materials re-
20 quired under subsection (a).

21 “(2) CRITERIA AND PROCESS FOR FEDRAMP
22 AUTHORIZATION PRIORITIES.—The Administrator
23 shall develop and make publicly available on the
24 website described in paragraph (1) the criteria and
25 process for prioritizing and selecting cloud com-

1 puting products and services that will receive a
2 FedRAMP authorization, in consultation with the
3 FedRAMP Board and the Chief Information Offi-
4 cers Council.

5 “(c) EVALUATION OF AUTOMATION PROCEDURES.—

6 “(1) IN GENERAL.—The Administrator, in co-
7 ordination with the Secretary, shall assess and
8 evaluate available automation capabilities and proce-
9 dures to improve the efficiency and effectiveness of
10 the issuance of FedRAMP authorizations, including
11 continuous monitoring of cloud computing products
12 and services.

13 “(2) MEANS FOR AUTOMATION.—Not later than
14 1 year after the date of enactment of this section,
15 and updated regularly thereafter, the Administrator
16 shall establish a means for the automation of secu-
17 rity assessments and reviews.

18 “(d) METRICS FOR AUTHORIZATION.—The Adminis-
19 trator shall establish annual metrics regarding the time
20 and quality of the assessments necessary for completion
21 of a FedRAMP authorization process in a manner that
22 can be consistently tracked over time in conjunction with
23 the periodic testing and evaluation process pursuant to
24 section 3554 in a manner that minimizes the agency re-
25 porting burden.

1 **“§ 3610. FedRAMP Board**

2 “(a) ESTABLISHMENT.—There is established a
3 FedRAMP Board to provide input and recommendations
4 to the Administrator regarding the requirements and
5 guidelines for, and the prioritization of, security assess-
6 ments of cloud computing products and services.

7 “(b) MEMBERSHIP.—The FedRAMP Board shall
8 consist of not more than 7 senior officials or experts from
9 agencies appointed by the Director, in consultation with
10 the Administrator, from each of the following:

11 “(1) The Department of Defense.

12 “(2) The Department of Homeland Security.

13 “(3) The General Services Administration.

14 “(4) Such other agencies as determined by the
15 Director, in consultation with the Administrator.

16 “(c) QUALIFICATIONS.—Members of the FedRAMP
17 Board appointed under subsection (b) shall have technical
18 expertise in domains relevant to FedRAMP, such as—

19 “(1) cloud computing;

20 “(2) cybersecurity;

21 “(3) privacy;

22 “(4) risk management; and

23 “(5) other competencies identified by the Direc-
24 tor to support the secure authorization of cloud serv-
25 ices and products.

26 “(d) DUTIES.—The FedRAMP Board shall—

1 “(1) in consultation with the Administrator,
2 serve as a resource for best practices to accelerate
3 the process for obtaining a FedRAMP authorization;

4 “(2) establish and regularly update require-
5 ments and guidelines for security authorizations of
6 cloud computing products and services, consistent
7 with standards and guidelines established by the Di-
8 rector of the National Institute of Standards and
9 Technology, to be used in the determination of
10 FedRAMP authorizations;

11 “(3) monitor and oversee, to the greatest extent
12 practicable, the processes and procedures by which
13 agencies determine and validate requirements for a
14 FedRAMP authorization, including periodic review
15 of the agency determinations described in section
16 3613(b);

17 “(4) ensure consistency and transparency be-
18 tween agencies and cloud service providers in a man-
19 ner that minimizes confusion and engenders trust;
20 and

21 “(5) perform such other roles and responsibil-
22 ities as the Director may assign, with concurrence
23 from the Administrator.

24 “(e) DETERMINATIONS OF DEMAND FOR CLOUD
25 COMPUTING PRODUCTS AND SERVICES.—The FedRAMP

1 Board may consult with the Chief Information Officers
2 Council to establish a process, which may be made avail-
3 able on the website maintained under section 3609(b), for
4 prioritizing and accepting the cloud computing products
5 and services to be granted a FedRAMP authorization.

6 **“§ 3611. Independent assessment**

7 “The Administrator may determine whether
8 FedRAMP may use an independent assessment service to
9 analyze, validate, and attest to the quality and compliance
10 of security assessment materials provided by cloud service
11 providers during the course of a determination of whether
12 to use a cloud computing product or service.

13 **“§ 3612. Declaration of foreign interests**

14 “(a) IN GENERAL.—An independent assessment serv-
15 ice that performs services described in section 3611 shall
16 annually submit to the Administrator information relating
17 to any foreign interest, foreign influence, or foreign con-
18 trol of the independent assessment service.

19 “(b) UPDATES.—Not later than 48 hours after there
20 is a change in foreign ownership or control of an inde-
21 pendent assessment service that performs services de-
22 scribed in section 3611, the independent assessment serv-
23 ice shall submit to the Administrator an update to the in-
24 formation submitted under subsection (a).

1 “(c) CERTIFICATION.—The Administrator may re-
2 quire a representative of an independent assessment serv-
3 ice to certify the accuracy and completeness of any infor-
4 mation submitted under this section.

5 **“§ 3613. Roles and responsibilities of agencies**

6 “(a) IN GENERAL.—In implementing the require-
7 ments of FedRAMP, the head of each agency shall, con-
8 sistent with guidance issued by the Director pursuant to
9 section 3614—

10 “(1) promote the use of cloud computing prod-
11 ucts and services that meet FedRAMP security re-
12 quirements and other risk-based performance re-
13 quirements as determined by the Director, in con-
14 sultation with the Secretary;

15 “(2) confirm whether there is a FedRAMP au-
16 thorization in the secure mechanism provided under
17 section 3609(a)(8) before beginning the process of
18 granting a FedRAMP authorization for a cloud com-
19 puting product or service;

20 “(3) to the extent practicable, for any cloud
21 computing product or service the agency seeks to au-
22 thorize that has received a FedRAMP authorization,
23 use the existing assessments of security controls and
24 materials within any FedRAMP authorization pack-
25 age for that cloud computing product or service; and

1 “(4) provide to the Director data and informa-
2 tion required by the Director pursuant to section
3 3614 to determine how agencies are meeting metrics
4 established by the Administrator.

5 “(b) ATTESTATION.—Upon completing an assess-
6 ment or authorization activity with respect to a particular
7 cloud computing product or service, if an agency deter-
8 mines that the information and data the agency has re-
9 viewed under paragraph (2) or (3) of subsection (a) is
10 wholly or substantially deficient for the purposes of per-
11 forming an authorization of the cloud computing product
12 or service, the head of the agency shall document as part
13 of the resulting FedRAMP authorization package the rea-
14 sons for this determination.

15 “(c) SUBMISSION OF AUTHORIZATIONS TO OPERATE
16 REQUIRED.—Upon issuance of an agency authorization to
17 operate based on a FedRAMP authorization, the head of
18 the agency shall provide a copy of its authorization to op-
19 erate letter and any supplementary information required
20 pursuant to section 3609(a) to the Administrator.

21 “(d) SUBMISSION OF POLICIES REQUIRED.—Not
22 later than 180 days after the date on which the Director
23 issues guidance in accordance with section 3614(1), the
24 head of each agency, acting through the chief information
25 officer of the agency, shall submit to the Director all agen-

1 cy policies relating to the authorization of cloud computing
2 products and services.

3 “(e) PRESUMPTION OF ADEQUACY.—

4 “(1) IN GENERAL.—The assessment of security
5 controls and materials within the authorization
6 package for a FedRAMP authorization shall be pre-
7 sumed adequate for use in an agency authorization
8 to operate cloud computing products and services.

9 “(2) INFORMATION SECURITY REQUIRE-
10 MENTS.—The presumption under paragraph (1)
11 does not modify or alter—

12 “(A) the responsibility of any agency to en-
13 sure compliance with subchapter II of chapter
14 35 for any cloud computing product or service
15 used by the agency; or

16 “(B) the authority of the head of any
17 agency to make a determination that there is a
18 demonstrable need for additional security re-
19 quirements beyond the security requirements
20 included in a FedRAMP authorization for a
21 particular control implementation.

22 **“§ 3614. Roles and responsibilities of the Office of**
23 **Management and Budget**

24 “The Director shall—

1 “(1) in consultation with the Administrator and
2 the Secretary, issue guidance that—

3 “(A) specifies the categories or characteris-
4 tics of cloud computing products and services
5 that are within the scope of FedRAMP;

6 “(B) includes requirements for agencies to
7 obtain a FedRAMP authorization when oper-
8 ating a cloud computing product or service de-
9 scribed in subparagraph (A) as a Federal infor-
10 mation system; and

11 “(C) encompasses, to the greatest extent
12 practicable, all necessary and appropriate cloud
13 computing products and services;

14 “(2) issue guidance describing additional re-
15 sponsibilities of FedRAMP and the FedRAMP
16 Board to accelerate the adoption of secure cloud
17 computing products and services by the Federal
18 Government;

19 “(3) in consultation with the Administrator, es-
20 tablish a process to periodically review FedRAMP
21 authorization packages to support the secure author-
22 ization and reuse of secure cloud products and serv-
23 ices;

24 “(4) oversee the effectiveness of FedRAMP and
25 the FedRAMP Board, including the compliance by

1 the FedRAMP Board with the duties described in
2 section 3610(d); and

3 “(5) to the greatest extent practicable, encour-
4 age and promote consistency of the assessment, au-
5 thorization, adoption, and use of secure cloud com-
6 puting products and services within and across agen-
7 cies.

8 **“§ 3615. Reports to Congress; GAO report**

9 “(a) REPORTS TO CONGRESS.—Not later than 1 year
10 after the date of enactment of this section, and annually
11 thereafter, the Director shall submit to the appropriate
12 congressional committees a report that includes the fol-
13 lowing:

14 “(1) During the preceding year, the status, effi-
15 ciency, and effectiveness of the General Services Ad-
16 ministration under section 3609 and agencies under
17 section 3613 and in supporting the speed, effective-
18 ness, sharing, reuse, and security of authorizations
19 to operate for secure cloud computing products and
20 services.

21 “(2) Progress towards meeting the metrics re-
22 quired under section 3609(d).

23 “(3) Data on FedRAMP authorizations.

24 “(4) The average length of time to issue
25 FedRAMP authorizations.

1 “(5) The number of FedRAMP authorizations
2 submitted, issued, and denied for the preceding year.

3 “(6) A review of progress made during the pre-
4 ceding year in advancing automation techniques to
5 securely automate FedRAMP processes and to accel-
6 erate reporting under this section.

7 “(7) The number and characteristics of author-
8 ized cloud computing products and services in use at
9 each agency consistent with guidance provided by
10 the Director under section 3614.

11 “(8) A review of FedRAMP measures to ensure
12 the security of data stored or processed by cloud
13 service providers, which may include—

14 “(A) geolocation restrictions for provided
15 products or services;

16 “(B) disclosures of foreign elements of
17 supply chains of acquired products or services;

18 “(C) continued disclosures of ownership of
19 cloud service providers by foreign entities; and

20 “(D) encryption for data processed, stored,
21 or transmitted by cloud service providers.

22 “(b) GAO REPORT.—Not later than 180 days after
23 the date of enactment of this section, the Comptroller
24 General of the United States shall report to the appro-

1 piate congressional committees an assessment of the fol-
 2 lowing:

3 “(1) The costs incurred by agencies and cloud
 4 service providers relating to the issuance of
 5 FedRAMP authorizations.

6 “(2) The extent to which agencies have proc-
 7 esses in place to continuously monitor the implemen-
 8 tation of cloud computing products and services op-
 9 erating as Federal information systems.

10 “(3) How often and for which categories of
 11 products and services agencies use FedRAMP au-
 12 thorizations.

13 “(4) The unique costs and potential burdens in-
 14 curred by cloud computing companies that are small
 15 business concerns (as defined in section 3(a) of the
 16 Small Business Act (15 U.S.C. 632(a)) as a part of
 17 the FedRAMP authorization process.

18 **“§ 3616. Federal Secure Cloud Advisory Committee**

19 “(a) ESTABLISHMENT, PURPOSES, AND DUTIES.—

20 “(1) ESTABLISHMENT.—There is established a
 21 Federal Secure Cloud Advisory Committee (referred
 22 to in this section as the ‘Committee’) to ensure ef-
 23 fective and ongoing coordination of agency adoption,
 24 use, authorization, monitoring, acquisition, and secu-

1 rity of cloud computing products and services to en-
2 able agency mission and administrative priorities.

3 “(2) PURPOSES.—The purposes of the Com-
4 mittee are the following:

5 “(A) To examine the operations of
6 FedRAMP and determine ways that authoriza-
7 tion processes can continuously be improved, in-
8 cluding the following:

9 “(i) Measures to increase agency
10 reuse of FedRAMP authorizations.

11 “(ii) Proposed actions that can be
12 adopted to reduce the burden, confusion,
13 and cost associated with FedRAMP au-
14 thorizations for cloud service providers.

15 “(iii) Measures to increase the num-
16 ber of FedRAMP authorizations for cloud
17 computing products and services offered by
18 small businesses concerns (as defined by
19 section 3(a) of the Small Business Act (15
20 U.S.C. 632(a)).

21 “(iv) Proposed actions that can be
22 adopted to reduce the burden and cost of
23 FedRAMP authorizations for agencies.

1 “(B) Collect information and feedback on
2 agency compliance with and implementation of
3 FedRAMP requirements.

4 “(C) Serve as a forum that facilitates com-
5 munication and collaboration among the
6 FedRAMP stakeholder community.

7 “(3) DUTIES.—The duties of the Committee in-
8 clude providing advice and recommendations to the
9 Administrator, the FedRAMP Board, and agencies
10 on technical, financial, programmatic, and oper-
11 ational matters regarding secure adoption of cloud
12 computing products and services.

13 “(b) MEMBERS.—

14 “(1) COMPOSITION.—The Committee shall be
15 comprised of not more than 15 members who are
16 qualified representatives from the public and private
17 sectors, appointed by the Administrator, in consulta-
18 tion with the Director, as follows:

19 “(A) The Administrator or the Administra-
20 tor’s designee, who shall be the Chair of the
21 Committee.

22 “(B) At least 1 representative each from
23 the Cybersecurity and Infrastructure Security
24 Agency and the National Institute of Standards
25 and Technology.

1 “(C) At least 2 officials who serve as the
2 Chief Information Security Officer within an
3 agency, who shall be required to maintain such
4 a position throughout the duration of their serv-
5 ice on the Committee.

6 “(D) At least 1 official serving as Chief
7 Procurement Officer (or equivalent) in an agen-
8 cy, who shall be required to maintain such a po-
9 sition throughout the duration of their service
10 on the Committee.

11 “(E) At least 1 individual representing an
12 independent assessment service.

13 “(F) At least 5 representatives from
14 unique businesses that primarily provide cloud
15 computing services or products, including at
16 least 2 representatives from a small business
17 concern (as defined by section 3(a) of the Small
18 Business Act (15 U.S.C. 632(a))).

19 “(G) At least 2 other representatives of the
20 Federal Government as the Administrator de-
21 termines necessary to provide sufficient balance,
22 insights, or expertise to the Committee.

23 “(2) DEADLINE FOR APPOINTMENT.—Each
24 member of the Committee shall be appointed not

1 later than 90 days after the date of enactment of
2 this section.

3 “(3) PERIOD OF APPOINTMENT; VACANCIES.—

4 “(A) IN GENERAL.—Each non-Federal
5 member of the Committee shall be appointed
6 for a term of 3 years, except that the initial
7 terms for members may be staggered 1-, 2-, or
8 3-year terms to establish a rotation in which
9 one-third of the members are selected each
10 year. Any such member may be appointed for
11 not more than 2 consecutive terms.

12 “(B) VACANCIES.—Any vacancy in the
13 Committee shall not affect its powers, but shall
14 be filled in the same manner in which the origi-
15 nal appointment was made. Any member ap-
16 pointed to fill a vacancy occurring before the
17 expiration of the term for which the member’s
18 predecessor was appointed shall be appointed
19 only for the remainder of that term. A member
20 may serve after the expiration of that member’s
21 term until a successor has taken office.

22 “(c) MEETINGS AND RULES OF PROCEDURES.—

23 “(1) MEETINGS.—The Committee shall hold
24 not fewer than 3 meetings in a calendar year, at
25 such time and place as determined by the Chair.

1 “(2) INITIAL MEETING.—Not later than 120
2 days after the date of enactment of this section, the
3 Committee shall meet and begin the operations of
4 the Committee.

5 “(3) RULES OF PROCEDURE.—The Committee
6 may establish rules for the conduct of the business
7 of the Committee if such rules are not inconsistent
8 with this section or other applicable law.

9 “(d) EMPLOYEE STATUS.—

10 “(1) IN GENERAL.—A member of the Com-
11 mittee (other than a member who is appointed to the
12 Committee in connection with another Federal ap-
13 pointment) shall not be considered an employee of
14 the Federal Government by reason of any service as
15 such a member, except for the purposes of section
16 5703 of title 5, relating to travel expenses.

17 “(2) PAY NOT PERMITTED.—A member of the
18 Committee covered by paragraph (1) may not receive
19 pay by reason of service on the Committee.

20 “(e) APPLICABILITY TO THE FEDERAL ADVISORY
21 COMMITTEE ACT.—Section 14 of the Federal Advisory
22 Committee Act (5 U.S.C. App.) shall not apply to the
23 Committee.

24 “(f) DETAIL OF EMPLOYEES.—Any Federal Govern-
25 ment employee may be detailed to the Committee without

1 reimbursement from the Committee, and such detailee
 2 shall retain the rights, status, and privileges of his or her
 3 regular employment without interruption.

4 “(g) POSTAL SERVICES.—The Committee may use
 5 the United States mails in the same manner and under
 6 the same conditions as agencies.

7 “(h) REPORTS.—

8 “(1) INTERIM REPORTS.—The Committee may
 9 submit to the Administrator and Congress interim
 10 reports containing such findings, conclusions, and
 11 recommendations as have been agreed to by the
 12 Committee.

13 “(2) ANNUAL REPORTS.—Not later than 540
 14 days after the date of enactment of this section, and
 15 annually thereafter, the Committee shall submit to
 16 the Administrator and Congress a report containing
 17 such findings, conclusions, and recommendations as
 18 have been agreed to by the Committee.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 20 The table of sections for chapter 36 of title 44, United
 21 States Code, is amended by adding at the end the fol-
 22 lowing new items:

“3607. Definitions.

“3608. Federal Risk and Authorization Management Program.

“3609. Roles and responsibilities of the General Services Administration.

“3610. FedRAMP Board.

“3611. Independent assessment.

“3612. Declaration of foreign interests.

“3613. Roles and responsibilities of agencies.

“3614. Roles and responsibilities of the Office of Management and Budget.

“3615. Reports to Congress; GAO report.

“3616. Federal Secure Cloud Advisory Committee.”.

1 (c) SUNSET.—

2 (1) IN GENERAL.—Effective on the date that is
3 5 years after the date of enactment of this Act,
4 chapter 36 of title 44, United States Code, is
5 amended by striking sections 3607 through 3616.

6 (2) CONFORMING AMENDMENT.—Effective on
7 the date that is 5 years after the date of enactment
8 of this Act, the table of sections for chapter 36 of
9 title 44, United States Code, is amended by striking
10 the items relating to sections 3607 through 3616.

11 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion or any amendment made by this section shall be con-
13 strued as altering or impairing the authorities of the Di-
14 rector of the Office of Management and Budget or the
15 Secretary of Homeland Security under subchapter II of
16 chapter 35 of title 44, United States Code.

Passed the Senate March 1, 2022.

Attest:

Secretary.

117TH CONGRESS
2^D SESSION

S. 3600

AN ACT

To improve the cybersecurity of the Federal Government, and for other purposes.